

JOURNAL
of the
HOUSE OF
REPRESENTATIVES
of the
GENERAL ASSEMBLY
of the
COMMONWEALTH OF KENTUCKY

Regular Session of 1974

Volume I

**Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1974, and
in the One Hundred and Eighty-second
Year of the Commonwealth**

**Begun on the Eighth Day of January, 1974, and Adjourned
Sine Die on the Twenty-second Day of March, 1974**

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of the obligation for the House of Representatives of 1974.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray and Mrs. Martha Jane Rogers prepared the 1974 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

JACKSON W. WHITE

Director

The Capitol
Frankfort, Kentucky

TUESDAY, JANUARY 8, 1974

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**JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY**

REGULAR SESSION, 1974

TUESDAY, JANUARY 8, 1974

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 8, 1974, the one hundred and eighty-second year of the Commonwealth, in accordance with the provisions of the Constitution, Representative W. J. Reynolds assumed the Chair and called the House to order.

Prayer by Reverend Herman Bowers of the First Baptist Church, Frankfort.

The Clerk read the following certificate from the Secretary of State:

**COMMONWEALTH OF KENTUCKY
FRANKLIN COUNTY**

I, Thelma L. Stovall, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office this 8th day of January, 1974.

THELMA L. STOVALL
Secretary of State
Commonwealth of Kentucky

MEMBERS OF THE HOUSE OF REPRESENTATIVES

1974 KENTUCKY GENERAL ASSEMBLY

- 1ST DISTRICT Ralph Ed Graves (D)
 415 Hillsdale Street
 Bardwell, Kentucky 42023
- 2ND DISTRICT Lloyd Clapp (D)
 P.O. Box 85
 Wingo, Kentucky 42088
- 3RD DISTRICT Fred H. Morgan (D)
 2057 Broad Street
 Paducah, Kentucky 42001
- 4TH DISTRICT George F. Harris (D)
 P.O. Box 168
 Salem, Kentucky 42078
- 5TH DISTRICT Kenneth C. Imes (D)
 201 S. Third Street
 Murray, Kentucky 42071
- 6TH DISTRICT Richard H. Lewis (D)
 P.O. Box 165
 Benton, Kentucky 42025
- 7TH DISTRICT Joseph McBride (D)
 Route 1
 Waverly, Kentucky 42462
- 8TH DISTRICT W. Edward Whitfield (D)
 120 Alumni Street
 Hopkinsville, Kentucky 42240
- 9TH DISTRICT James E. Bruce (D)
 Route 1
 Hopkinsville, Kentucky 42240
- 10TH DISTRICT W. Michael Troop (D)
 453 Logan Street
 Madisonville, Kentucky 42431
- 11TH DISTRICT Gross C. Lindsay (D)
 Union Federal Building
 Henderson, Kentucky 42420
- 12TH DISTRICT Joe Head (D)
 Route 2
 Providence, Kentucky 42450
- 13TH DISTRICT Charles S. Wible (D)
 2940 Tanglewood Drive
 Owensboro, Kentucky 42301
- 14TH DISTRICT Donald J. Blandford (D)
 Route 1
 Philpot, Kentucky 42366

- 15TH DISTRICT Billy R. Paxton (D)
P.O. Box 655
Central City, Kentucky 42330
- 16TH DISTRICT Lewis Foster (D)
Route 2
Lewisburg, Kentucky 42256
- 17TH DISTRICT Willard C. Allen (R)
Route 2
Morgantown, Kentucky 42261
- 18TH DISTRICT Alec G. Stone (D)
Star Route 2
Brandenburg, Kentucky 40108
- 19TH DISTRICT G. W. (Bill) Vincent (D)
Route 2
Leitchfield, Kentucky 42754
- 20TH DISTRICT Nicholas Z. Kafoglis (D)
1008 Newman Drive
Bowling Green, Kentucky 42101
- 21ST DISTRICT Edward G. Brown (D)
301 N. Sunrise Street
Bowling Green, Kentucky 42101
- 22ND DISTRICT Carl Bowles (R)
Route 3
Tompkinsville, Kentucky 42167
- 23RD DISTRICT Bobby H. Richardson (D)
117 E. Washington St.
Glasgow, Kentucky 42141
- 24TH DISTRICT Sam B. Thomas (D)
Country Club Drive
Lebanon, Kentucky 40033
- 25TH DISTRICT Sam H. Watkins (D)
617 Cherrywood Street
Elizabethtown, Kentucky 42701
- 26TH DISTRICT Virgil L. Pearman (D)
952 Woodland Drive
Radcliffe, Kentucky 40160
- 27TH DISTRICT Archie N. Romines, Sr. (D)
13312 Tennis Blvd.
Valley Station, Kentucky 40272
- 28TH DISTRICT James R. (Jim) Dunn (D)
5009 Maryman Road
Pleasure Ridge Park
Louisville, Kentucky 40258
- 29TH DISTRICT Al Bennett (D)
3518 Blanton Lane
Louisville, Kentucky 40214

- 30TH DISTRICT Thomas J. Burch (D)
4850 Brenda Drive
Louisville, Kentucky 40219
- 31ST DISTRICT Mark D. O'Brien (D)
38 Meadowview Drive
Louisville, Kentucky
- 32ND DISTRICT E. Bruce Blythe, Jr. (R)
306 York Street
Louisville, Kentucky 40203
- 33RD DISTRICT Bob Benson (D)
3413 Rowena Street
Louisville, Kentucky
- 34RD DISTRICT David K. Karem (D)
2442 Ransdell Avenue
Louisville, Kentucky 40204
- 35TH DISTRICT Carl A. Nett (D)
1268 Lydia Street
Louisville, Kentucky 40217
- 36TH DISTRICT Frank X. Quickert, Jr. (D)
3300 First National Towers Bldg.
Louisville, Kentucky 40204
- 37TH DISTRICT M. J. (Jerry) Kleier (D)
335 W. Southside Court
Louisville, Kentucky 40214
- 38TH DISTRICT Richard (Dick) Chandler (D)
1471 Bluegrass Avenue
Louisville, Kentucky 40215
- 39TH DISTRICT Lawrence Ray Maynard (D)
1340 South Sixth Street
Louisville, Kentucky 40208
- 40TH DISTRICT George R. Siemens (D)
1701 Marlow Drive
Louisville, Kentucky 40216
- 41ST DISTRICT Mae Street Kidd (D)
2308 Chestnut, West
Louisville, Kentucky 40211
- 42ND DISTRICT Charlotte S. McGill (D)
3016 River Park Drive
Louisville, Kentucky 40211
- 43RD DISTRICT Norbert Blume (D)
4224 North Western Parkway
Louisville, Kentucky 40212
- 44TH DISTRICT James B. Yates (D)
2305 Thurman Drive
Louisville, Kentucky 40216
- 45TH DISTRICT Dottie Priddy (D)

3702 South Park Road
Louisville, Kentucky 40219

46TH DISTRICT Robert F. Hughes (D)
7900 Gayeway Drive
Louisville, Kentucky 40219

47TH DISTRICT Edward L. Holloway (R)
10705 Sunderland Place
Middletown, Kentucky 40243

48TH DISTRICT Louis R. Guenthner, Jr. (R)
2110 Dogoon Drive
Louisville, Kentucky

49TH DISTRICT Thomas B. Givhan (D)
Star Route
Shepherdsville, Kentucky 40165

50TH DISTRICT John Hurst (D)
Route 1
Bloomfield, Kentucky 40008

51ST DISTRICT Herman W. Rattliff (R)
602 Meader Street
Campbellsville, Kentucky 42718

52ND DISTRICT Raymond Overstreet (R)
P.O. Box 478
Liberty, Kentucky 42539

53RD DISTRICT Randolph Smith (R)
Monticello,
Kentucky 42633

54TH DISTRICT Joe Clarke (D)
420 Boone Trail
Danville, Kentucky 40422

55TH DISTRICT Forest "Aggie" Sale (D)
520 Beaumont Street
Harrodsburg, Kentucky 40330

56TH DISTRICT Victor Hellard, Jr. (D)
110 Court Street
Versailles, Kentucky 40383

57TH DISTRICT C. M. (Hank) Hancock (D)
417 W. Second Street
Frankfort, Kentucky 40601

58TH DISTRICT David G. Mason (D)
High View Street
Eminence, Kentucky 40019

59TH DISTRICT W. J. (Jay) Loudon (D)
P.O. Box 26
Carrollton, Kentucky 41008

60TH DISTRICT William K. McBee (D)
500 Florence Pike

Burlington, Kentucky 41005

61ST DISTRICT Clay Crupper (D)
25 Wilron Drive
Dry Ridge, Kentucky 41035

62ND DISTRICT John Swinford (D)
106 S. Elmarsh Avenue
Cynthiana, Kentucky 41031

63RD DISTRICT W. L. (Bill) Schmaedecke (R)
P.O. Box 546
Covington, Kentucky 41011

64TH DISTRICT Phillip E. King (D)
15 S. Southern Avenue
Covington, Kentucky 41015

65TH DISTRICT John J. Isler (D)
1813 Jefferson Avenue
Covington, Kentucky 41014

66TH DISTRICT Elmer Dietz (D)
514 Linden Street
Ludlow, Kentucky 41106

67TH DISTRICT Terry L. Mann (D)
19 Douglas Avenue
Newport, Kentucky 41071

68TH DISTRICT William (Bill) Donnermeyer (D)
333 Bonnie Leslie Avenue
Bellevue, Kentucky 41073

69TH DISTRICT Arthur L. Schmidt (R)
134 Winters Lane
Cold Spring, Kentucky 41076

70TH DISTRICT Dr. Mitchel B. Denham (D)
506 Forest Drive
Maysville, Kentucky 41056

71ST DISTRICT Woodford F. (Woody) May (D)
Woodsbend,
Kentucky 41476

72ND DISTRICT Brooks Hinkle (D)
Route 3
Paris, Kentucky 40361

73RD DISTRICT Glenn White (D)
Route 1
Van Meter Road
Winchester, Kentucky 40391

74TH DISTRICT Adrian Arnold (D)
Aarons Run Road
Mt. Sterling, Kentucky 40343

75TH DISTRICT William G. Kenton (D)
109 N. Mill

Lexington, Kentucky 40508

76TH DISTRICT Steven L. Beshear (D)
317 Mariemont Drive
Lexington, Kentucky 40505

77TH DISTRICT David L. Van Horn (D)
1024 Juniper Drive
Lexington, Kentucky 40504

78TH DISTRICT Larry J. Hopkins (R)
148 N. Limestone Street
Lexington, Kentucky 40507

79TH DISTRICT Don W. Stephens (D)
1909 Blairmore Road
Lexington, Kentucky 40502

80TH DISTRICT William Harold DeMarcus (R)
Route 2
Stanford, Kentucky 40484

81ST DISTRICT Dwight Wells (D)
Route 7
Richmond, Kentucky 40475

82ND DISTRICT Clifford M. Sharpe (R)
1600 W. Main Street
Williamsburg, Kentucky 40769

83RD DISTRICT Leonard R. Hislope (R)
107 Church Street
Somerset, Kentucky 42501

84TH DISTRICT Sam Brewer, Jr. (R)
Route 3
Irvine, Kentucky 40336

85TH DISTRICT Albert Robinson (R)
Pittsburg,
Kentucky 40755

86TH DISTRICT James H. White, Jr. (D)
Box 242
Barbourville, Kentucky 40906

87TH DISTRICT George E. Stewart (D)
528 Kentucky Avenue
Pineville, Kentucky 40977

88TH DISTRICT Glenn R. Freeman (D)
1209 Lynn Street
Cumberland, Kentucky 40823

89TH DISTRICT John Raymond Turner (D)
929 1/2 Highland Avenue
Jackson, Kentucky 41339

90TH DISTRICT Clay Gay (R)
Box 43
Hyden, Kentucky 41749

91ST DISTRICT Hoover Dawahare (D)
Box 540
Whitesburg, Kentucky 41858

92ND DISTRICT Sidney Adams (D)
Littcarr,
Kentucky 41834

93RD DISTRICT N. Clayton Little (D)
Box 404
Hartley, Kentucky 41532

94TH DISTRICT William Lee Roberts (D)
P.O. Box 694
Pikeville, Kentucky 41501

95TH DISTRICT W. J. (Bill) Reynolds (D)
P.O. Box 56
Allen, Kentucky 41601

96TH DISTRICT James A. (Jim) Davis (R)
210 N. Court Street
Grayson, Kentucky 41143

97TH DISTRICT L. T. Hardin (R)
P.O. Box 202
Inez, Kentucky 41224

98TH DISTRICT W. Terry McBrayer (D)
1208 Riverside Drive
Greenup, Kentucky 41144

99TH DISTRICT Ray O. Brown (D)
Sandy Hook,
Kentucky 41171

100TH DISTRICT Charles R. Holbrook, III (R)
2735 East Grove
Ashland, Kentucky 41101

The roll was called. All members present.

Representative Swinford moved that the Certificates of Election be confirmed. Agreed.

Said representatives produced their certificates of election, appeared before the Presiding Officer and were administered their oaths of office by Judge John S. Palmore of the Court of Appeals of Kentucky.

Representative Swinford moved the nomination of Norbert Blume as Speaker of the House of Representatives.

The motion was seconded by Representative DeMarcus.

On the roll call the vote was yeas 95-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Dietz, Demarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens,

Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

Representative Blume was elected Speaker of the House of Representatives and Representative Reynolds appointed a committee composed of Representatives Priddy, Kleier, Hellard and McBrayer to escort the Speaker to the Chair.

The oath of office was administered to Speaker Blume by Judge John S. Palmore of the Court of Appeals of Kentucky.

Speaker Blume assumed the Chair.

Representative Swinford moved the nomination of Billy R. Paxton as Speaker Pro Tempore of the House of Representatives.

The motion was seconded by Representative DeMarcus.

Agreed.

The Speaker appointed a committee composed of Representatives Clarke and McBride to escort the Speaker Pro Tempore to the Speaker's bench.

The oath of office was administered by Judge John S. Palmore of the Court of Appeals of Kentucky.

Representative Swinford read the nominations for the following House Constitutional Officers:

Chief Clerk	Addie Stokley
Assistant Clerk	Sara Bell
Enrolling Clerk	Margaret Watts
Sergeant at Arms	Fred Steier
Chief Doorkeeper	John White
Cloakroom Keeper	Harold Conn
Cloakroom Keeper	Wes Eastridge
Janitor	Frank Bassett, Jr.
Page	Stewart Burch
Page	Claiborne Vansant
Page	Paula Jo Johnson
Page	William Gillock Brooks

Representative Swinford moved that the nominees be elected. Agreed.

The nominees for the House Constitutional Officers were elected and the oath of office was administered by Judge John S. Palmore of the Court of Appeals of Kentucky.

Representative Reynolds announced that the Democratic Party in caucus assembled had elected the following Majority Party House leadership:

Floor Leader	John Swinford
Whip	George T. Harris
Caucus Chairman	W. J. Reynolds

Representative Hopkins announced that the Republican Party in caucus assembled had elected the following Minority Party House leadership:

Floor Leader	W. Harold DeMarcus
Whip	Arthur L. Schmidt
Caucus Chairman	Larry J. Hopkins

Motions, Petitions and Communications

HR 4, by Representative Swinford: A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

HR 4, A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That a committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business and that said committee shall, in conjunction with a like committee from the Senate, wait upon the Governor and inform him that the General Assembly is now organized and ready to receive any communications he may desire to deliver.

Representative Swinford moved the adoption of **HR 4**. Agreed.

The Speaker appointed the following committee to wait upon the Senate and the Governor: Representatives Reynolds, DeMarcus, and Kidd.

HR 5, by Representative Swinford: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

HR 5, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House of Representatives with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open the sessions thereof with prayer.

Representative Swinford moved the adoption of **HR 5**. Agreed.

HR 3, by Representative Swinford: A RESOLUTION adopting temporary rules to govern the 1974 House of Representatives.

HR 3, A RESOLUTION adopting temporary rules to govern the 1974 House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the rules adopted by the House of Representatives to govern the 1972 House of Representatives be adopted as the temporary rules governing the session beginning January 8, 1974, to remain in effect until superseded by the adoption of permanent rules.

Representative Swinford moved the adoption of **HR 3**. Agreed.

Representative Blume moved the reading of Legislative Citations. Agreed.

Representative Burch moved the adoption of the following Citation No. 1:

The House hereby recognizes Miss Terri Jean Burch as a Page in the House of Representatives on this day and extends to her congratulations on this special day - her sixteenth birthday. This body commends Miss Burch for her scholastic standing of excellence at Holy Rosary Academy and her membership in the National Honor Society. (Sponsored by Representative Burch)

Agreed.

The Speaker announced the following appointments to the Committee on Committees:

Norbert Blume, Chairman (D)
Billy Paxton, Vice Chairman (D)
John Swinford (D)
W. J. "Bill" Reynolds (D)
George Harris (D)
William Harold DeMarcus (R)

The Speaker requested the Committee on Committees to meet briefly at the desk.

The Speaker announced the following Committee appointments:

RULES COMMITTEE

Norbert Blume, Chairman (D)
Billy Paxton, Vice Chairman (D)

John Swinford, (D)
W. J. "Bill" Reynolds (D)
George Harris (D)
Edward G. Brown (D)
Lloyd Edward Clapp (D)

Nicholas Kafoglis (D)
William G. Kenton (D)
George R. Siemens (D)
William Donnermeyer (D)
Joseph H. McBride (D)

William Harold DeMarcus, Minority Chairman (R)

Larry J. Hopkins (R)

Arthur L. Schmidt (R)

ENROLLMENT COMMITTEE

John Isler, Chairman (D)
Mae Street Kidd, Vice Chairman (D)
Robert F. Hughes (D)
Sam B. Thomas (D)
Dottie Priddy (D)

AGRICULTURE AND NATURAL RESOURCES

Donald J. Blandford, Chairman (D)
Joe Head, Vice Chairman (D)
Woodford F. "Woody" May, Vice Chairman (D)

Adrian Arnold (D)
Clay Crupper (D)
Lewis Foster (D)
John Hurst (D)
N. Clayton Little (D)

Virgil L. Pearman (D)
William Lee Roberts (D)
George E. Stewart (D)
John Raymond Turner (D)

Herman W. Rattliff, Minority Chairman (R)

Randolph Smith (R)

Willard C. Allen (R)

APPROPRIATIONS AND REVENUE

P. Joseph Clarke, Jr., Chairman (D)
Victor Hellard, Jr., Vice Chairman (D)
Carl A. Nett, Vice Chairman (D)

Steven L. Beshear (D)
 Glenn R. Freeman (D)
 Joseph H. McBride (D)
 Mark D. O'Brien (D)
 Billy Paxton (D)

W. Michael Troop (D)
 Dwight Wells (D)
 W. Edward Whitfield (D)
 Charles S. Wible (D)

Edward L. Holloway, Minority Chairman (R)

William Harold DeMarcus (R)

Albert Robinson (R)

BANKING AND INSURANCE

Joseph H. McBride, Chairman (D)
Mae Street Kidd, Vice Chairman (D)
Charlotte S. McGill, Vice Chairman (D)

Lewis Foster (D)
 George F. Harris (D)
 Kenneth C. Imes (D)
 M. J. "Jerry" Kleier (D)
 Fred Morgan (D)

Virgil L. Pearman (D)
 George E. Stewart (D)
 Alec G. Stone (D)
 Sam B. Thomas (D)

Charles R. Holbrook, III, Minority Chairman (R)

L. T. Hardin (R)

Clifford M. Sharpe (R)

BUSINESS ORGANIZATIONS AND PROFESSIONS

William Donnermeyer, Chairman (D)
William K. McBee, Vice Chairman (D)
Sam B. Thomas, Vice Chairman (D)

Thomas J. Burch (D)
 Elmer Dietz (D)
 Glenn R. Freeman (D)
 John J. Isler (D)
 Phillip E. King (D)

W. J. "Jay" Loudon (D)
 Terry L. Mann (D)
 Fred Morgan (D)
 David L. Van Horn (D)

Clifford M. Sharpe, Minority Chairman (R)

William L. Schmaedecke (R)

Arthur L. Schmidt (R)

CITIES

William G. Kenton, Chairman (D)
John J. Isler, Vice Chairman (D)
David K. Karem, Vice Chairman (D)

Bob Benson (D)
 Thomas J. Burch (D)
 C. M. "Hank" Hancock (D)
 Nicholas Z. Kafoglis (D)
 M. J. "Jerry" Kleier (D)

Lawrence Ray Maynard (D)
 Frank X. Quickert, Jr. (D)
 George R. Siemens (D)
 Don W. Stephens (D)

Bruce Blythe, Jr., Minority Chairman (R)

Carl H. Bowles (R)

Clay Gay (R)

COUNTIES AND SPECIAL DISTRICTS

Ralph Ed Graves, Chairman (D)
W. J. "Jay" Louden, Vice Chairman (D)
Glenn White, Vice Chairman (D)

Brooks Hinkle (D)
David G. Mason (D)
Mark D. O'Brien (D)
Archie N. Romines, Sr. (D)

Adrian Arnold (D)
Al Bennett (D)
James Edmond Bruce (D)
Lloyd Edward Clapp (D)
Thomas B. Givhan (D)

Leonard R. Hislope, Minority Chairman (R)

Louis R. Guenther, Jr. (R)

Sam Brewer, Jr. (R)

EDUCATION

Brooks Hinkle, Chairman (D)
Fred Morgan, Vice Chairman (D)
Forest "Aggie" Sale, Vice Chairman (D)

Terry L. Mann (D)
Carl A. Nett (D)
Don W. Stephens (D)
James H. "Jimmy" White (D)

Sidney Adams (D)
Ray O. Brown (D)
Mitchel B. Denham (D)
David K. Karem (D)
Clayton Little (D)

Clay Gay, Minority Chairman (R)

Willard C. Allen (R)

Larry J. Hopkins (R)

ELECTIONS AND CONSTITUTIONAL AMENDMENTS

Lloyd Edward Clapp, Chairman (D)
Robert F. Hughes, Vice Chairman (D)
Nicholas Z. Kafoglis, Vice Chairman (D)

Richard H. Lewis (D)
Gross Clay Lindsay (D)
Bobby H. Richardson (D)
G. W. "Bill" Vincent (D)

Clay Crupper (D)
Ralph Ed Graves (D)
John Hurst (D)
John J. Isler (D)
Mae Street Kidd (D)

L. T. Hardin, Minority Chairman (R)

Carl H. Bowles (R)

Arthur L. Schmidt (R)

HEALTH AND WELFARE

James R. "Jim" Dunn, Chairman (D)
Lawrence Ray Maynard, Vice Chairman (D)
M. J. "Jerry" Kleier, Vice Chairman (D)

Robert F. Hughes (D)
Dottie Priddy (D)
Forest "Aggie" Sale (D)
Glenn White (D)

Sidney Adams (D)
Richard "Dick" Chandler (D)
Mitchel B. Denham (D)
Joe Head (D)
Victor Hellard, Jr. (D)

Maymond Overstreet, Minority Chairman (R)

James A. "Jim" Davis (R)

Larry J. Hopkins (R)

HIGHWAYS AND TRAFFIC SAFETY

James Edmond Bruce, Chairman (D)
John Hurst, Vice Chairman (D)
David L. Van Horn, Vice Chairman (D)

Hoover Dawahare (D)
 Mitchel B. Denham (D)
 David Mason (D)
 C. M. "Hank" Hancock (D)
 Gross Clay Lindsay (D)

Dottie Priddy (D)
 Sam H. Watkins (D)
 G. W. "Bill" Vincent (D)
 James B. Yates (D)

James A. "Jim" Davis, Minority Chairman (R)

Herman W. Rattliff (R)

Leonard R. Hislope (R)

JUDICIARY

Frank X. Quickert, Jr., Chairman (D)
Phillip E. King, Vice Chairman (D)
Bobby H. Richardson, Vice Chairman (D)

Bob Benson (D)
 Steven L. Beshear (D)
 David K. Karem (D)
 William G. Kenton (D)
 Richard H. Lewis (D)

Thomas B. Givhan (D)
 Charlotte S. McGill (D)
 Alec G. Stone (D)
 W. Michael Troop (D)

William L. Schmaedecke, Minority Chairman (R)

Charles R. Holbrook, III (R)

Raymond Overstreet (R)

LABOR AND INDUSTRY

George R. Siemens, Chairman (D)
Thomas J. Burch, Vice Chairman (D)
Dottie Priddy, Vice Chairman (D)

Al Bennett (D)
 Ray O. Brown (D)
 Richard "Dick" Chandler (D)
 Hoover Dawahare (D)
 Kenneth C. Imes (D)

Charlotte S. McGill (D)
 William Lee Roberts (D)
 Archie N. Romines, Sr. (D)
 James B. Yates (D)

Sam Brewer, Jr., Minority Chairman (R)

Louis Guenthner (R)

Edward L. Holloway (R)

PUBLIC UTILITIES AND TRANSPORTATION

Edward G. Brown, Chairman (D)
John Raymond Turner, Vice Chairman (D)
Sam H. Watkins, Vice Chairman (D)

Donald J. Blandford (D)
 Elmer Dietz (D)
 James R. "Jim" Dunn (D)
 W. J. "Jay" Loudon (D)
 Woodford F. "Woody" May (D)

William K. McBee (D)
 W. Terry McBrayer (D)
 James H. "Jimmy" White (D)
 W. Edward Whitfield (D)

Randolph Smith, Minority Chairman (R)

Bruce Blythe, Jr. (R)

Albert Robinson (R)

STATE GOVERNMENT

Charles S. Wible, Chairman (D)
Dwight Wells, Vice Chairman (D)
W. Terry McBrayer, Vice Chairman (D)

Norbert Blume (D)
Edward G. Brown (D)
P. Joseph Clarke, Jr. (D)
William Donnermeyer (D)
George F. Harris (D)

Billy Paxton (D)
W. J. "Bill" Reynolds (D)
Bobby H. Richardson (D)
John Swinford (D)

William Harold DeMarcus, Minority Chairman (R)

Bruce Blythe, Jr. (R)

Arthur Schmidt (R)

A Committee from the Senate reported to the House the state of the Senate's readiness to do business.

Representative Reynolds reported the duties of the Committee appointed to wait upon the Senate and the Governor had been carried out.

Introduction of Bills and Resolutions

HB 1, by Representative Blume: AN ACT relating to the acquisition, use and control, and disposition of real property.

HB 2, by Representative Isler: AN ACT relating to flouridation.

HB 3, by Representative Wells: AN ACT relating to the solicitation of printed material.

HB 4, by Representative Wells: AN ACT relating to county commissioners.

HB 5, by Representative Hinkle: AN ACT relating to powers of fiscal courts.

HB 6, by Representative Wells: AN ACT relating to county judges' fees.

HB 7, by Representative McBee: AN ACT relating to judicial districts.

HB 8, by Representative Rattliff: AN ACT relating to state legislative districts.

HB 9, by Representative Overstreet: AN ACT relating to strip mining.

HB 10, by Representative Hinkle: AN ACT relating to the levy of school taxes.

HB 11, by Representative Siemens: AN ACT relating to mediation and conciliation of labor disputes.

HB 12, by Representative Donnermeyer: AN ACT relating to the management and use of investments held by eleemosynary institutions and funds.

HB 13, by Representative Donnermeyer: AN ACT relating to drive-in theaters.

HB 14, by Representative Kidd: AN ACT relating to election expenses.

HB 15, by Representative Blandford: AN ACT relating to the marketing of milk.

HB 16, by Representative Blandford: AN ACT relating to stockyards.

HB 17, by Representative Blandford: AN ACT relating to stockyards.

HB 18, by Representative Blandford: AN ACT relating to the marketing of milk.

HB 19, by Representative Blandford: AN ACT relating to commercial feed.

HB 20, by Representative Donnermeyer: AN ACT relating to premises licensed for the retail sale of package liquor.

HB 21, by Representative Graves: AN ACT relating to the offices of county officials, circuit court clerks, and commonwealth's attorneys.

HB 22, by Representative Clarke: AN ACT relating to public records.

HB 23, by Representative Kafoglis: AN ACT relating to elections.

HB 24, by Representative Siemens: AN ACT relating to unemployment insurance.

HB 25, by Representative Siemens: AN ACT relating to unemployment insurance commission.

HB 26, by Representative Blandford: AN ACT relating to garbage and refuse disposal districts.

HB 27, by Representative Donnermeyer: AN ACT relating to the sale and merchantability of motor vehicles.

HB 28, by Representative Donnermeyer: AN ACT relating to alcoholic beverages.

HB 29, by Representative Donnermeyer: AN ACT relating to the revocation or suspension of alcoholic beverage licenses.

HB 30, by Representative Graves: AN ACT relating to purchasing by local units of government.

HB 31, by Representative Donnermeyer: AN ACT relating to females on premises licensed for the sale of alcoholic beverages by the drink.

HB 32, by Representative Siemens: AN ACT relating to motor vehicles.

HB 33, by Representative Siemens: AN ACT relating to anti-pyramid sales.

HB 34, by Representative Blandford: AN ACT relating to providing for the maintenance of works of improvement of a watershed conservancy district by a conservation district when the watershed conservancy district is discontinued.

HB 35, by Representative Siemens: AN ACT relating to unemployment insurance.

HB 36, by Representative Siemens: AN ACT relating to the duties of the Commissioner of Labor.

HB 37, by Representative Siemens: AN ACT relating to the sale of used motor vehicles.

HB 38, by Representative Siemens: AN ACT relating to materialmen's liens.

HB 39, by Representative G. White: AN ACT relating to the salaries of city mayors and commissioners.

HB 40, by Representative Clarke: AN ACT relating to exemptions from compulsory school attendance.

HB 41, by Representative Clarke: AN ACT relating to exceptional children.

HB 42, by Representative Bruce: AN ACT relating to motor vehicle operator licensing.

HB 43, by Representative Yates: AN ACT relating to holidays.

HB 44, by Representative Siemens: AN ACT relating to home solicitation sales.

HB 45, by Representative Holbrook: AN ACT relating to wills.

HB 46, by Representative Siemens: AN ACT relating to consumer credit transactions.

HB 47, by Representative Rattliff: AN ACT relating to the County Employees' Retirement System.

HB 48, by Representatives G. White, Head, Kleier and May: AN ACT relating to ambulance service districts.

HB 49, by Representative Graves: AN ACT relating to the election of the boards of supervisors of conservation districts.

HB 50, by Representatives Siemens, Burch and Priddy: AN ACT relating to collective bargaining for public employees.

HB 51, by Representatives Hinkle, Dunn, Arnold and Stephens: AN ACT relating to the experimental operation of school programs.

HB 52, by Representatives Burch, Hopkins and Maynard: AN ACT relating to the designation of anatomical gifts on motor vehicle and motorcycle operators' licenses.

HB 53, by Representative Karem: AN ACT relating to deleting provisions which are radically discriminatory.

HB 54, by Representatives Watkins, Hinkle, Dunn, Morgan, Arnold, McBrayer and Stephens: AN ACT relating to the Teachers' Retirement System.

HB 55, by Representative Rattliff: AN ACT relating to free textbooks.

HB 56, by Representative Clarke: AN ACT relating to education for exceptional children.

HB 57, by Representative Wells: AN ACT relating to the State Historical Society.

HB 58, by Representative Kleier: AN ACT relating to membership of county boards of health in counties containing a first-class city.

HB 59, by Representatives Watkins, Hinkle, Morgan, Dunn, Arnold, McBrayer and Stephens: AN ACT relating to sick leave for teachers.

HB 60, by Representative Clarke: AN ACT relating to education for exceptional children.

HB 61, by Representative Kafoglis: AN ACT relating to taxation.

HB 62, by Representative Kleier: AN ACT relating to elections.

HB 63, by Representative Kleier: AN ACT relating to school board.

HB 64, by Representatives Blandford, E. Brown and Watkins: AN ACT relating to oil and gas conservation.

HB 65, by Representative G. White: AN ACT relating to mobile homes and recreational vehicles.

HB 66, by Representative Swinford: AN ACT relating to libraries.

HB 67, by Representative Blandford: AN ACT relating to water resources.

HB 68, by Representative Kafoglis: AN ACT relating to elections.

HB 69, by Representative Kafoglis: AN ACT relating to the financing of Gubernatorial Campaigns.

HB 70, by Representative Siemens: AN ACT relating to deductions from wages of employees.

HB 71, by Representative Siemens: AN ACT relating to wages and hours.

HB 72, by Representative Blandford: AN ACT relating to solid waste disposal.

HB 73, by Representative Blandford: AN ACT relating to auditing the accounts of a watershed conservancy district.

HB 74, by Representative Givhan: AN ACT relating to suits of personal injury.

HB 75, by Representative Givhan: AN ACT relating to traffic control on off-street parking facilities.

HB 76, by Representative Hughes: AN ACT relating to public utilities.

HB 77, by Representative Kafoglis: AN ACT relating to the licensing of minors to operate motor vehicles.

HB 78, by Representative Clarke: AN ACT relating to protection of the environment.

HB 79, by Representative Givhan: AN ACT relating to landlord and tenant.

HB 80, by Representatives Morgan, Sharpe and Donnermeyer: AN ACT relating to Kentucky Employes Retirement System.

HB 81, by Representative Givhan: AN ACT relating to assumed business names.

HB 82, by Representative Clarke: AN ACT relating to power plant siting.

HB 83, by Representative Hopkins: AN ACT relating to the Kentucky Commission on Aging and a Bureau for Aging.

HB 84, by Representative Kleier: AN ACT relating to public assistance.

HB 85, by Representative Kleier: AN ACT relating to public assistance.

HB 86, by Representative Reynolds: AN ACT relating to education.

HB 87, by Representative Reynolds: AN ACT relating to workmen's compensation.

HB 88, by Representative Hughes: AN ACT relating to elections.

HB 89, by Representative Overstreet: AN ACT relating to elections.

HB 90, by Representative Givhan: AN ACT relating to comparative negligence in all civil cases.

HB 91, by Representative Reynolds: AN ACT relating to motor carriers of passengers for hire.

HB 92, by Representative Arnold: AN ACT relating to state aid for the promotion of the purebred cattle industry.

HB 93, by Representative Overstreet: AN ACT relating to inheritance and estate taxes.

HB 94, by Representative Givhan: AN ACT relating to juveniles.

HB 95, by Representative Givhan: AN ACT relating to elections.

HB 96, by Representatives Hellard and McBrayer: AN ACT relating to providing for the Kentucky Trails System.

HB 97, by Representative Burch: AN ACT relating to planning and zoning.

HB 98, by Representative Kenton: AN ACT relating to cities.

HB 99, by Representatives Robinson and Sharpe: AN ACT relating to state legislative districts.

HB 100, by Representative McBrayer: AN ACT relating to meetings.

HB 101, by Representative McBrayer: AN ACT relating to meetings.

HB 102, by Representative Givhan: AN ACT relating to providing for the recovery of punitive damages in civil contracts without the necessity of proving actual damages as a condition precedent.

HB 103, by Representative Reynolds: AN ACT relating to juveniles.

HB 104, by Representative Imes: AN ACT relating to motor vehicle operators' licenses.

HB 105, by Representatives Schmidt, Isler, Donnermeyer, King, Mann, McBee, Dietz and Schmaedecke: AN ACT relating to higher education.

HB 106, by Representative Givhan: AN ACT relating to the employment of minors.

HB 107, by Representative Holbrook: AN ACT relating to exempting governmental units from the sales tax.

HB 108, by Representative Karem: AN ACT relating to condominium projects.

HB 109, by Representative Hughes: AN ACT relating to courts.

HB 110, by Representative McBrayer: AN ACT relating to taxes on legal actions.

HB 111, by Representatives Givhan and Hancock: AN ACT relating to circuit court districts.

HB 112, by Representative Givhan: AN ACT relating to newspapers.

HB 113, by Representative G. White: AN ACT relating to handicapped ramps on sidewalks and curbs in areas devoted to or zoned for business, commercial or industrial use.

HB 114, by Representative Clarke: AN ACT relating to open space land.

HB 115, by Representative Clarke: AN ACT relating to bills in the General Assembly.

HB 116, by Representative Holbrook: AN ACT relating to cities.

HB 117, by Representative Holbrook: AN ACT relating to city water supply systems.

HB 118, by Representative Hellard: AN ACT relating to congressional districts.

HB 119, by Representative Clarke: AN ACT relating to the procedure for having name changed.

HB 120, by Representative Hughes: AN ACT relating to controlled substances.

HB 121, by Representative Blythe: AN ACT relating to noise control.

HB 122, by Representative Givhan: AN ACT relating to littering.

HB 123, by Representative Quickert: AN ACT relating to Chambers of Commerce.

HB 124, by Representatives Imes and Hughes: AN ACT relating to motion pictures.

HB 125, by Representative Kenton: AN ACT relating to rental agreements.

HB 126, by Representative Imes: AN ACT relating to civil service appointments.

HB 127, by Representative Clarke: AN ACT relating to treatment of funds.

HB 128, by Representative Head: AN ACT relating to registration of foresters.

HB 129, by Representatives Burch and Maynard: AN ACT relating to exempting prosthetic devices and physical aids from the sales and use tax.

HB 130, by Representatives Burch and Maynard: AN ACT relating to the General Assembly.

HB 131, by Representative Isler: AN ACT relating to sales and use taxes.

HB 132, by Representative Reynolds: AN ACT relating to an exhibition center.

HB 133, by Representative Romines: AN ACT relating to motor vehicles.

HB 134, by Representative Romines: AN ACT relating to slow-moving vehicles.

HB 135, by Representative Romines: AN ACT relating to operators of for-hire motor vehicles.

HB 136, by Representative G. White: AN ACT relating to public buildings and public accommodations.

HB 137, by Representative Kidd: AN ACT relating to lead poisoning.

HB 138, by Representative Clarke: AN ACT relating to providing for the taking of the sense of the people of the State as to the necessity and expediency of calling a convention for the purpose of revising or amending the Constitution of the Commonwealth, and such amendments as may have been made to same as provided by Section 258 of the present Constitution of Kentucky.

HB 139, by Representative Clarke: AN ACT relating to mental health.

HB 140, by Representative Robinson: AN ACT relating to daylight saving time.

HB 141, by Representative Hellard: AN ACT relating to beverage containers.

HB 142, by Representative Mason: AN ACT relating to state legislative districts.

HB 143, by Representative Reynolds: AN ACT relating to rabies control.

HB 144, by Representative Watkins: AN ACT relating to liability insurance for state officers and employees.

HB 145, by Representatives Maynard and Burch: AN ACT relating to the licensing of motor vehicles.

HB 146, by Representatives Burch and Maynard: AN ACT relating to the establishment of a school of veterinary medicine in Kentucky.

HB 147, by Representative Blythe: AN ACT relating to planning and zoning.

HB 148, by Representative Quickert: AN ACT relating to trusts.

HB 149, by Representative Quickert: AN ACT relating to trusts.

HB 150, by Representative Quickert: AN ACT relating to unemployment insurance.

HB 151, by Representative Quickert: AN ACT relating to the dissolution of nonprofit corporations.

HB 152, by Representative Watkins: AN ACT relating to the Board of Claims.

HB 153, by Representatives Watkins and McBrayer: AN ACT relating to liability insurance for state vehicles.

HB 154, by Representative Quickert: An ACT relating to incompatible offices.

HB 155, by Representative Louden: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, and making an appropriation therefor.

HB 156, by Representative Blandford: AN ACT relating to forestry.

HB 157, by Representative Robinson: AN ACT relating to juror's pay.

HB 158, by Representative Quickert: AN ACT relating to nonprofit corporations.

HB 159, by Representative Quickert: AN ACT relating to real estate transfers.

HB 160, by Representative Beshear: AN ACT relating to allotment of classroom units by Superintendent of Public Instruction.

HB 161, by Representative Mason: AN ACT relating to the Kentucky Employes Retirement System.

HB 162, by Representatives Imes and McBrayer: AN ACT relating to motor vehicle usage tax.

HB 163, by Representative DeMarcus: AN ACT relating to daylight saving time.

HB 164, by Representative Priddy: AN ACT relating to Optometrists.

HB 165, by Representative Romines: AN ACT relating to the Kentucky Registry of Election Finance.

HB 166, by Representative Swinford: AN ACT relating to the taking of birds.

HB 167, by Representative Swinford: AN ACT relating to the construction, reconstruction and maintenance of urban roads and streets by an incorporated area or unincorporated urban place.

HB 168, by Representative Swinford: AN ACT relating to reservation of certain tax receipts for urban roads and streets.

HB 169, by Representative Swinford: AN ACT relating to the distribution of certain motor truck registration fees among the counties.

HB 170, by Representative Swinford: AN ACT relating to motor fuels taxes.

HB 171, by Representative Swinford: AN ACT relating to ceding to the United States concurrent criminal jurisdiction over those portions of Trigg and Lyon Counties within the boundaries of the Land between the Lakes.

HB 172, by Representative DeMarcus: AN ACT relating to controlled substances.

HB 173, by Representative Reynolds: AN ACT relating to County Employes' Retirement System.

HB 174, by Representative Mann: AN ACT relating to moral character and statutory professional licensing.

HB 175, by Representative Clarke: AN ACT relating to adjournment by the General Assembly.

HB 176, by Representative Swinford: AN ACT relating to boats and boating.

HB 177, by Representative Hughes: AN ACT relating to designating the sycamore tree as the official tree of the Commonwealth.

HB 178, by Representative Freeman: AN ACT relating to telephone rates.

HB 179, by Representative Freeman: AN ACT relating to motor vehicle inspection.

HB 180, by Representatives Hinkle and Blandford: AN ACT relating to the sale of livestock and grain.

HB 181, by Representatives Blume, Swinford, Reynolds, Paxton and Harris: AN ACT relating to holidays.

HB 182, by Representatives Nett, Bennett, Benson, Blume, Blythe, Burch, Chandler, Dunn, Guenthner, Holloway, Hughes, Karem, Kidd, Kleier, Maynard, McGill, O'Brien, Priddy, Quickert, Romines, Siemens, and Yates: AN ACT relating to tuition at the University of Louisville.

HB 183, by Representative Lewis: AN ACT relating to low income housing.

Announcements

Representative Hinkle announced a meeting of the Committee on Education, Room 307, 11:00 a.m., Wednesday, January 9, 1974.

Recess

Representative Swinford moved that the House recess until 6:30 p.m., January 8, 1974. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Prayer by Reverend Herman Bowers of the First Baptist Church, Frankfort.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 15, HB 16, HB 17, HB 18, HB 19, HB 26, HB 34, HB 67, HB 72, HB 73, HB 166.**

Business Organizations and Professions: **HB 12, HB 13, HB 20, HB 28, HB 29, HB 31.**

Cities: **HB 98, HB 107, HB 116, HB 125.**

Counties and Special Districts: **HB 3, HB 4, HB 5, HB 6, HB 10, HB 21.**

Education: **HB 51, HB 54, HB 59.**

Elections and Constitutional Amendments: **HB 49, HB 61, HB 68, HB 69.**

Health and Welfare: **HB 48, HB 83, HB 84, HB 85.**

Highways and Traffic Safety: **HB 42, HB 167.**

Judiciary: **HB 171.**

Labor and Industry: **HB 11, HB 24, HB 25, HB 27, HB 32, HB 33, HB 35, HB 36, HB 37, HB 38, HB 44, HB 46.**

Public Utilities and Transportation: **HB 64.**

State Government: **HB 1, HB 57, HB 66, HB 121, HB 168, HB 169, HB 170, HB 176.**

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session.

The Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate.

Representative Swinford moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, assumed the Chair.

Representative Swinford moved that the House and Senate resolve into Joint Session for the purpose of receiving the State of the Commonwealth address of the Honorable Wendell H. Ford, Governor of Kentucky. Agreed.

Representative Swinford moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by the Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The Committee of the House appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session appeared with the Governor.

Lieutenant Governor Julian M. Carroll introduced the Honorable Wendell H. Ford, Governor of Kentucky.

Governor Ford addressed the Joint Session of the General Assembly.

The Governor's State of the Commonwealth Address
January 8, 1974

LIEUTENANT GOVERNOR CARROLL
MR. SPEAKER
MEMBERS OF THE GENERAL ASSEMBLY
MY FELLOW KENTUCKIANS

You have extended an invitation for a report on the status of our state, which I accept with deep appreciation, and great enthusiasm.

In addition to this address, and the biennial budget recommendation, both which are traditional, I may ask your permission for two other appearances in joint session.

One would be a special energy message due to America's latest crisis. Kentucky's potential for a unique role in helping solve this crisis can have a tremendously favorable impact on our future. The other message would be to speak on reorganization of state government since such an undertaking has not been achieved in nearly 40 years.

Tonight's purpose, however, is to place the condition of our state in proper perspective. By doing so, you and others will gauge our present quality of life, how we have advanced in two years, and this Commonwealth's position among other states of the Union.

Certainly, all is not perfect. No Governor, no legislative body, ever accomplishes the sum total responsible individuals desire. Those who have formerly served would, I'm sure, echo this reality. We have

had outstanding Governors and outstanding General Assemblies. But to use an example, though every living Governor, as well as past legislatures, left legacies for others to grasp, each wanted to do more.

Years from now, as society changes, other Governors and other legislators will experience the frustrations of trying to perform countless good deeds they will, unfortunately, be unable to complete. This is the history of both our nation and commonwealth, a history dictating an approach to the rational continuity of administrations.....a base I have endeavored to strengthen since December 7, 1971.

In applauding the 1972 General Assembly, as others did following adjournment, I want to say here and now that it was the most productive session in history, and I challenge this body to surpass the tremendous contributions of service and leadership the 1972 General Assembly provided.

Such words as "meaningful, business-like, peaceful, and historic," were used by the analysts. Naturally they found faults. All of us can, especially when we rely on 20-20 hindsight, or personal preference. But the justified accolades were there. In my opinion, the justification is now even more warranted in view of Kentucky's posture as 1974 begins.

The health of my state is first evaluated by examining its economic position. In no uncertain terms, the key to progress is when men and women are working.

Kentuckians are working' 106,000 more in nonagricultural jobs alone since 1971.

Unemployment is declining rapidly, and is lower than the national average.

Per capita income for Kentuckians has increased faster than the national average.

For the first time Kentucky has recorded true billion dollar farm economies--last year it was one and a quarter billion.

Corporations and businesses realized their highest profit levels ever.

Why did all this happen?

- * Because the 1972 General Assembly and I kept our word to the people of Kentucky.
- * Because we tossed away old methods and were willing to try new ones, in the face of howling critics.
- * Because of a determination to make positive things happen, beneficial to all who live in this state.
- * And, because the people worked hard to improve their own lot.

At no time since the beginning of World War II, and in many cases at no time ever, has our state's economic growth of the last two years been matched. But the major point is that Kentucky did better than the nation, despite alarming national problems--inflation, impoundments, curtailments of programs, and a paralysis of federal decision making. It adds up to a Kentucky initiative for which we can all take pride'

At this point, however, caution is indicated. It is imperative that we distinguish between the past two years and the next two years. The past has been conquered' Looking back since the end of 1971, we have hurdled many obstacles which haven't been in Kentucky's way during previous times. Looking ahead to the end of 1975, the energy crisis looms as a definite threat to our state as well as the entire country. Our ability to overcome this and other expected difficulties will be the supreme test. But let me make one point without reservation--there may be an energy shortage, but there will never be a shortage of another resources, and that resource is the spirit and determination of Kentuckians'

Adversity builds strength. Warning of adversity on January 4, 1972, in this chamber, I said: "There are serious problems which must be turned into working solutions by the time we leave office: I am approaching the next four years supported by the understanding that adversity can instill a stronger spirit."

This has been the approach. Where there were no federal domestic priorities, there have been state priorities. Where rising costs have burdened especially the poor, and those on fixed and middle incomes, Kentuckians are now paying less state taxes and receiving more services.

Our unprecedented economic growth is seen by the \$598 per capita income increase. In 1971, unemployment for this state amounted to 5.2%. At the end of last year, it was 4.2%. We weren't in this condition for instance, in 1969 when the national rate was lower than Kentucky's, nor in 1970 when unemployment rose, both, in Kentucky and America. That climb peaked two years ago. It has been going downward ever since.

To expand further, last month only 1.7% of our citizens were receiving unemployment compensation. This compares to 2.3% in the U.S., again showing Kentucky's outstanding position among other states.

The dramatic rise in workers follows our stable economy, and it comes partially with new and expanded industry--151 new industries with 121 expansions of existing firms. The two-year investment amounted to over \$415 million, but that's not all. An additional \$231 million was invested in industrial warehousing and electric generating plants.

Confidence is growing in Kentucky'

Agriculture's record-smashing two years were real; federal subsidies were not fed into state figures. Farmers gained their highest net incomes ever. And we didn't do it by selling grain to Russia which caused food prices to skyrocket out of sight'

When you put this all together--business profits, unemployment, new jobs, farm income, increased per capita income--with another major part of our economy, coal, it means that Kentucky, often looked down upon by others in the past, stands tall in America'

Look at the coal industry. Its employment has now gone over the twenty-nine thousand figure, the highest on record. Coal production neared 128 million tons last year, 20 million tons over our nearest rival, West Virginia' Our first year was also a marked improvement for the coal industry. These things happened--more production, more employment, more money--with fewer strip mines and small deep mines which were generally marginal at best.

What, therefore, is obvious? Despite the perils of a threatening national economy, Kentucky stands out, and someone, just someone, might conclude that in this state we're doing it right'

It is also apparent that by working together, the executive and 1972 legislative branches were correct in instituting tax reform which dramatically improved our economy.

When I stood before many of you two years ago with a tax reform plan, and a philosophy of operating government as a business, the doubting Thomases were vocal. They have been proven wrong' And who can say this better than the housewife, trying to figure out a food budget in the crunch of alarming price increases? Her family has received even more of a break than first anticipated.....a break when we eliminated the sales tax on food, a campaign commitment you helped me keep.

How I remember those who charged me with irresponsibility in our revenue estimates.....who said corporate tax adjustments would harm profits.....who said the severance tax--another campaign pledge--would depress the coal industry, and who said the removal of the sales tax on food was ill-timed. Perhaps this will illustrate the foolishness of those who speak simply for political gain, who use scare tactics against Kentuckians, and who are experts at finding reasons why new ideas won't work, rather than being willing to make them work'

Tax reform has stimulated the economy and lessened the heavy load on people, and I publicly thank those men and women who have helped bring us to a new plateau. It has prevented us from merely equalling the national averages, or falling below, as has been the case in the past. It has given Kentuckians a better quality of life, for if we were not where we are today, individuals and families would be paying more taxes, just to keep up, rather than less taxes to move ahead. Furthermore, their struggle against national economic plights would be greater.

The health of Kentucky can be examined through its efforts toward personal safety. Again, Kentucky beats the nation. This time in decline of major crimes, another event which hasn't occurred since before World War II.

The health of Kentucky can be examined through its environment where facts overshadow assumption. Those facts are that in January, 1972, 38,000 acres of surface-mined land were in default of reclamation. A positive response has been achieved on 37,000 acres. In doing so, the philosophy was getting the right kind of reclamation rather than pulling the trigger on those who failed to reclaim in the past, but would, and have, restored the land through firm, clear direction, and firm supervision and enforcement.

The greening of Kentucky shows in other ways, with over 14 million new trees planted last year alone; through improved forestry surveillance resulting in the lowest loss by fire recorded in recent years; and through the reclamation of orphan banks, a cooperative venture between the state and Job Corps that is working well and that was funded by the last General Assembly.

The Department for Natural Resources and Environmental Protection's air pollution permit system has resulted in an emission reduction of 1.6 million tons per year of pollutants. Twenty-five additional air monitoring stations have been added to the state network. Open dumps are going, and sanitary landfills are replacing them. Eighty open dumps were closed last year. Water and sewer facility plans and water quality management plans for all of our Area Development Districts have been completed. The same holds true in planning for hazardous solid waste, water quality control in mining, and water impoundment regulations. These new standards were reached because the 1972 General Assembly had the courage to support my budget and programs despite the self-anointed experts who said it couldn't be done.

Kentucky's health is also viewed through her opportunities for citizen activities, whether it be recreation, travel, hunting and fishing facilities, historical events or the many other advantages a state can provide. Tied with our commercial growth is the tourist industry, which, during the last two years, has reached unprecedented heights in the number of visitors, both from in state and out of state, in the number of miles traveled in Kentucky, and in the dollars spent.

Although major construction at Boonesboro and Tom Sawyer Park has begun, and land has been acquired along with a master plan for the new Kentucky Horse Park already in limited use, the past two years have been a period of necessary refurbishing, of long-needed maintenance and upgrading of our entire parks system. New management techniques have justified themselves by taking some of the red out of the parks budget, a red which has always existed but has seldom been improved upon. These techniques have increased service quality to the 50 million persons visiting our parks in the past two years. I base this on receipt of 40,000 comments, of which 90% were favorable.

As you know, the Department of Transportation is responsible for more than 25,000 miles of public roads and assists county governments in meeting their responsibilities for over 19,000 miles. The current fiscal year is also the first for our new Municipal Aid program (state-local revenue sharing) and I am happy to report that 423 cities have benefited with improvements to 720 miles of local streets. This is the revenue-sharing program the last General Assembly enacted against opposition from those who feared change. But the record already shows it was a responsible and responsive answer to serious needs.

During the first two years, construction projects statewide totaled \$297 million. This substantial program notes two unusual achievements. It includes more bridges across major rivers than the total of all such bridge projects for the past 50 years, and had the greatest single project ever awarded, the \$17.5 million Pikeville Model Cities cut-through.

Kentucky's health is directly associated with the ability of state and local governments to function as a team. In this area the spirit I mentioned earlier is clear. Never before has there been a more direct line of communications from the community--the citizen and official--to state government.

Home rule has proven beneficial. Reorganization has for the first time given local government a direct link to decision making in the executive branch. The Office for Local Government, our new liaison with cities and counties, provides services to an average of 900 assistance requests per month. Numerous programs in Kentucky have resulted through the full cooperation and input among the state, local governments and community leaders. Certainly, this is evidenced in our metropolitan areas. It says to you and all Kentucky.....government can be personal, and I think that's the way you want it'

I shall not expand at this time on the results of reorganization or the effects of innovative business techniques applied to the operation of state government. You will have that information in the budget message and other reports. However, I can look you square in the eye and say that, as the last budget called for a percentage decrease in tax dollars for government operations, we did even better by spending less than

was appropriated.

I can look you square in the eye and say without hesitation that reorganization is working, and will work even more professionally as time passes, with, of course, your concurrence.

I can tell you that, for example, the entire Department of Transportation now has fewer employees than the old single Highway Department did when I assumed office.

I can show you positive signs that the spiraling growth of government can be prevented. Isn't this what we both want?

I can assure you that a greater delivery of services, a faster delivery of services, is underway, and this is what government must be all about.

The health of Kentucky is also weighed through its educational opportunities. Education has been under a microscope since the beginning of public schools. It receives the greatest amount of state tax dollars, yet there are those who irresponsibly criticize state government, the legislatures, for failure.

Well exactly where does the amount of money the General Assembly appropriates for elementary and secondary education stand among all 50 states? The answer is 9th best in the nation, and it is no less than disgusting whenever individuals and a few special interest groups backbite many of you, plus others who have fought against economic odds to improve education.

Local funding support does not get such high marks.

Community support for elementary and secondary education ranks 42, even though there are legal and constitutional steps available to any community willing to expand its own effort for education. So let us distinguish who is doing what, and strive to improve the quality of education by ensuring that the massive state funds are indeed student-oriented.

Federal action has brought a cloud over education. Probably the one example among many poor federal decisions which I can give is the drastic curtailment of funds for head-start, certainly needed in Kentucky. First graders, through no fault of their own, are thrown into classes with those far more prepared for formal schooling. It is an adversity we are trying to overcome, and will overcome, as initiated when the last legislature funded and approved my plan for a public kindergarten, another campaign pledge. Here is one of several areas in which we must move onward.

There are many ways we can improve the quality of education, and once more I must remind you of federal abandonment, this time to libraries. Thousands upon thousands of school children utilize public libraries throughout the state, just as do adults. But the help from Washington suddenly stopped, and we're having to go it alone. And together we will do it.

Educational television now is a tool for 95% of our school districts, with 40,000 additional pupils having this special opportunity for learning in the last two years. We must make sure quality is the keynote to KET, just as we must make sure quality teaching is being provided in every county, and just as we must make sure that opportunities for learning are not isolated from any area.

Vocational education, where there has been an 11% increase in enrollment during the last year alone, and strong expansion, is another plus for Kentucky, one deserving our continued attention.

Hungry children are handicapped children. The state's effort to eliminate this disgraceful fact of life amounted to 32 million free meals and 600,000 reduced cost meals during the last two school sessions. May we never again find a hungry child in our schools.

The 1972 General Assembly, acting on my recommendation, moved aggressively in behalf of special education. Again, more must be done, but let's give credit for what has been accomplished.

The last two years have definitely found refinement in higher education, a standard I felt absolutely necessary and one being implemented by the restructured and strengthened Council on Public Higher Education. At the same time Kentucky, by legislative action, assumed a larger financial role by bringing the University of Louisville into the state system, and by providing generous support to Northern Kentucky State

College, necessary for its very early years in the system.

Health and welfare for all citizens of Kentucky is one more indicator of our overall status. Recently, I said in a public statement that the Human Resources Cabinet would probably be the most pleasant surprise in total government reorganization. Hopefully you will agree.

Still--before, during and after reorganization, some startling events happened. They show how we did reorganize without not only disrupting services, but at the same time how we could improve them.

I think you will be especially interested in the following:

- * A new procedure instituted in 1972 providing special intensive treatment to juveniles who would have, because of serious crimes, gone to adult corrections institutions, has passed its crucial test. Seventy-five percent fewer juveniles are now in adult correctional facilities as a result of rehabilitation efforts rather than merely putting them away to learn to become hardened adult offenders in later years.

- * Since 1972, the number of children being committed to juvenile treatment facilities has decreased 45% as a result of community-based treatment services, certainly a tax saving, but even more, a human savings.

- * In early 1972, there was a predicted nationwide explosion of venereal disease. Acting upon my recommendation, the legislature gave increased appropriations to fight this problem. Kentucky's expected increase of 14% in new cases of syphilis turned around to a six percent annual decrease.

And this one is very significant. The work incentive program designed to train and place welfare recipients into gainful employment has shown great success. We put the emphasis on productive employment rather than hand-outs. Job placement has tripled with over 2,500 persons leaving the welfare rolls to assume tax-paying jobs in 1973 alone, and this figure is going up all the time.

In reviewing the status of our commonwealth, I want to briefly touch on other notable points.

Our corrections system will not be classified any more as hell-hole institutions.

Our parole and probation system will not be under the unsavory light of patronage any more.

Our merit system has finally made believers out of skeptics with the addition of 4,200 state employees to its protection which I will ask you to ratify; with the tightest control ever over dismissal procedures whereby Kentuckians aren't paying for political hanky-panky. To date, only 361 merit system employees have been dismissed for all causes, contrasting with some 1,474 dismissals during the first year of the previous administration.

The fight against drug traffic is unparalleled. A much larger enforcement unit can be measured by its effectiveness. In 1971, 369 narcotic and drug arrests were made, in 1972 the figure rose to 532, and in the first 11 months last year, the count neared 800. That unit, plus the attention given by the entire State Police force is just one more indication of the new assault on crime in Kentucky.

Our state's enrichments came from many progressive pieces of legislation during the first biennium. Consumer protection, a statewide public defender system, refinement of the penal code, court reform, a generic drug law, low income housing, state-local revenue sharing to upgrade community police forces.....all are people-oriented to enhance the lives of Kentuckians.

Wild Rivers protection, the Pollution Abatement Authority, the Technical Institute and Forensic Psychiatric Center are other noteworthy achievements.

Together, we kept faith with the citizens of the greatest state in America. We did what we pledged to do, proving that there can be credibility in politics and government.

The moral, cultural and physical fiber of Kentucky is strong. Hopefully that strength has been extended through wise, courageous and responsible leadership.

As I conclude, may these thoughts be left.

We have every reason to be proud as Kentuckians. We should be proud of our accomplishments. We saw adversity and were not afraid to challenge it. We conceived new ideas and were willing to try them. We asked for involvement and it came, it came from the communities, the farms, the young and the elderly.

Yes, there is all the room in the world for pride in what has taken place. But there isn't one inch of space for smugness. There is every reason to approach the future with even more determination, expecting the worst in view of our national traumas, yet striving for the best in view of our own status this hour.

Two years from now I pray that we can look back on this 1974 session and say every man and woman in a position of leadership looked the future square in the eye, then took a giant step for human betterment. We can expand Kentucky's role as a national leader, by exceeding other states in more categories. In doing so, we will have again kept faith with those who come to us for the answers to their problems, and they will continue to realize that Kentucky doesn't have to take a back seat to any other state.

Thank you, and good evening.

Representative Swinford moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 171.**

Education: **HB 51, HB 54, HB 59.**

Public Utilities and Transportation: **HB 64.**

State Government: **HB 1, HB 57, HB 66, HB 121, HB 168, HB 169, HB 170, HB 176.**

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 184, by Representative Swinford: AN ACT to conserve energy on Kentucky highways.

HCR 1, by Representative Quickert: A CONCURRENT RESOLUTION ratifying and approving the promulgation and adoption of water pollution regulations designated WP-4-1; Water Quality Standards for Waters of the Commonwealth of Kentucky, and WP-6-2, the Classification of Waters, Treatment Requirements, and Compliance.

HR 2, by Representatives Burch, Maynard and Hughes: A RESOLUTION expressing the need for a school of veterinary medicine in Kentucky.

HCR 6, by Representative Swinford: A CONCURRENT RESOLUTION relating to Kentucky's Bicentennial Celebration.

HR 7, by Representatives Blume, Paxton, Swinford, Reynolds, Harris and Burch: A RESOLUTION expressing the opinion of the House of Representatives that all meetings of standing committees of the House be open to the public.

Representative Swinford moved that the rules be suspended for Reference of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bill:

Highways and Traffic Safety: **HB 184.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Highways and Traffic Safety: **HB 184.**

Announcements

The Committee Chairmen announced the following meetings on January 9, 1974:

Education, Room 307, 11:00 a.m.

Judiciary, Room 305, 11:00 a.m.

State Government, Room 305A, 10:00 a.m.

Highways and Traffic Safety, Room 307, 10:00 a.m.

The Committee Chairman announced the following meeting on January 10, 1974:

Public Utilities and Transportation, Room 307, 9:30 a.m.

Adjournment

Representative Swinford moved that the House adjourn until 1:00 p.m., Wednesday, January 9, 1974.

On the roll call the vote was yeas 79-Arnold, Bennett, Benson, Beshear, Blume, Blythe, Brewer, E. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dietz, Denham, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Wible, Yates. Nays 1-Maynard.

The motion to adjourn was adopted.

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Allen and Overstreet.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 8, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 185, by Representatives Hellard, Benson, and Beshear: AN ACT relating to protection of the environment.

HB 186, by Representative Clarke: AN ACT relating to health insurance.

HB 187, by Representatives Kenton, Lewis, Lindsay, Van Horn, Hughes, Clapp, Blume, Stephens, Hancock, Denham, Beshear, McBrayer, Paxton and McBride: AN ACT relating to reestablishment of the death penalty and amending various sections of the penal code to conform thereto.

Report of Committees

The Committee on Highways and Traffic Safety reported **HB 184**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 184, AN ACT to conserve energy on Kentucky highways.

WHEREAS, the Congress of the United States of America has by passage of **HR 11372** required that a speed limit of 55 miles per hour be imposed on the Nation's highways in order to conserve fuel, and

WHEREAS, failure to comply with **HR 11372** could cause the Commonwealth of Kentucky to lose all of its Federal Highway Aid under 23 U.S.C. 106,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:

(1)(a) Notwithstanding the provisions of KRS 189.390 or any other statutes the speed limit for all types of motor vehicles on any portion of any public highway of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, shall be 55 miles per hour.

(b) The maximum speed limit on any public highway except those mentioned in subsection (a) shall be 55 miles per hour. The Department of Transportation may set limits under this subsection less than 55 miles per hour after complying with the provisions of KRS 189.390(3) but in no event shall the limit exceed 55 miles per hour.

(c) The legislative body of each city and the county court of any county shall limit the speed of any motor vehicle on any city street or county road to 55 miles per hour.

(2) This Act shall cease to be in effect and stand repealed on and after the date on which the President declares that there is not a fuel shortage under the provisions of **HR 11372** or on June 30, 1976 whichever date occurs first. When this Act ceases to be in effect the provisions of KRS 189.390 or any other statute relating to speed limits on the public highways shall again become operative.

Section 2. WHEREAS, **HR 11372** required each state to reduce its speed limit to 55 miles per hour within 60 days after the President signed the bill, or run the risk of losing Federal Funds, an emergency is

declared to exist and this Act shall become effective upon passage and signature by the Governor.

The Committee Amendment to **HB 184** is as follows:

Amend printed copy of House Bill 184, page 2, by inserting after line 2 the following:

(d) In the event that the Congress of the United States should raise or lower the speed limits as set out in Section 1 (a), (b) and (c), the commissioner of the Department of Transportation shall be empowered to alter the speed limits on the public highways of the Commonwealth of Kentucky to comply therewith.

and on page 2, line 20, by changing the period to a comma and adding the following:

or on March 1, 1974, whichever date should last occur.

The Committee on Judiciary reported **HB 171** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 171, AN ACT ceding to the United States concurrent criminal jurisdiction over those portions of Trigg and Lyon Counties within the boundaries of the Land between The Lakes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 150 is created to read as follows:

Kentucky cedes to the United States criminal jurisdiction concurrent with that of Kentucky, solely for the purposes of section 13 of Title 18 of the United States Code and enforcement proceedings pursuant thereto, over those portions of Trigg and Lyon counties that lie within the boundaries of the Kentucky portion of Land between The Lakes and are more specifically described as follows:

(1) Beginning at a point in the Tennessee River at Tennessee River mile 49.2, such being the point of separation between the Kentucky-Tennessee state line and the Trigg County-Calloway County line; thence with the Trigg County-Calloway County line as it meanders northward with the river for a distance of approximately 5.5 miles to a point where the Marshall County-Calloway County line intersects the Trigg County line; thence with the Trigg County-Marshall County line and the river as they meander northward approximately 9 miles to a point where the Trigg County-Lyon County line intersects the Marshall County line; thence with the Lyon County-Marshall County line in a northerly direction to a point in said county line opposite Tennessee River mile 25.7; thence leaving the Lyon County-Marshall County line and running N. 53° 30' E. approximately 3795 feet to U.S. TVA Monument 2CN-6 in the 378-foot contour on the east shore of Kentucky Lake; thence with the 378-foot contour as it meanders northerly to the southwest end of the canal connecting Kentucky Lake and Lake Barkley; thence continuing with the 378-foot contour as it meanders along the southeast shore of the canal in a northeasterly direction to the northeast end of the canal; thence continuing with the 378-foot contour as it meanders eastward and southward to a point where the 378-foot contour intersects the Kentucky-Tennessee state line, said point being located on the west shore of Lake Barkley opposite Cumberland River mile 74.6; thence with the Kentucky-Tennessee state line in a westerly direction for a distance of approximately 8.6 miles to the point of beginning. The combined distance of the calls in the foregoing description that follow the meandering of the 378-foot contour from U.S. TVA Monument 2CN-6 to the Kentucky-Tennessee state line on the west shore of Lake Barkely is approximately 260 miles.

(2) Nothing in this Act shall be construed as ceding to the United States any existing legislative or other regulatory jurisdiction of the Commonwealth of Kentucky.

The Committee on State Government reported **HB 57** and **HB 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 57, AN ACT relating to the State Historical Society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.311 is amended to read as follows:

The Kentucky Historical Society created by Acts 1880, ch. 244, shall have all the powers and liabilities of a corporation and there is hereby granted to the society the following charter:

I

The Kentucky Historical Society shall collect, maintain and preserve authentic records, information, facts and relics connected with the history of the Commonwealth and the genealogy of her peoples; and promote a wider appreciation of the American heritage, with particular emphasis on the advancement and dissemination of knowledge of the history of Kentucky. The society may receive and hold by donation or devise, real or personal property to any extent and may, by gift, loan, purchase or otherwise hold books, papers, documents, historical memorials, and any other articles suited to promote the objects of the society in the Old State Capitol Building but all such property shall be held in trust for the Commonwealth of Kentucky according to the terms of acceptance.

II

All American citizens, partnerships, corporations or associations who shall evidence their dedication to the promotion of the objects and purposes of the society may become active members thereof upon their approval under regulations prescribed by the executive committee, and the payment of annual dues in a sum determined by the executive committee. Any person possessing the qualifications for membership may become a life member on the payment of a sum determined by the executive committee. The executive committee may determine classes of memberships and establish respective rates of dues. Every member in good standing, including the authorized representative of an institutional member, shall have the right to vote in person or by proxy, hold office, and otherwise take part in the proceedings of the society. Membership may be terminated by resignation or nonpayment of dues.

III

The officers of the society shall be a chancellor, who shall be the Governor of the Commonwealth of Kentucky, a president, first, second and third vice-presidents, who shall be ex-officio members of the executive committee. All officers, except the chancellor, shall be elected for a term of one year at the annual meeting of the Society in a manner provided by law, and the president shall be ineligible to succeed himself if he has been elected for two successive terms.

IV

[There is hereby created the Board of Curators of the Society, referred to herein as the board, which shall consist of forty members. It shall be composed of the chancellor, the President of the Society, the Director of the Society who shall serve as secretary of the Board, and one person designated by the State Archives and Records Commission, eighteen members of the society appointed by the executive committee and a like number appointed by the Governor. The appointed members of the board shall be divided into four equal classes, so arranged that the term of one class shall expire at each annual meeting of the society.

V

The board shall endeavor at all times to promote the historical interest of the Commonwealth of Kentucky, counsel and advise the executive committee and officers of the society in the conduct of the business and programs calculated to promote the best interests of the Commonwealth and its citizens. It shall perform such duties as the society may from time to time prescribe to promote and advance the best interests of the society and the purpose for which it was formed. It shall make an annual report to the society concerning all significant actions of the board, the condition of the society and its work, and such recommendations as may be appropriate.

The board shall adopt rules of procedure to facilitate its functions.

VI

The board shall meet in the City of Frankfort at least once during each calendar year but it may hold special meetings in any other location when the work of the board would be facilitated thereby. All meetings shall be called by the director of the society when requested by the chancellor, the president or any four members of the board.]

V[VII]

There is hereby created an executive committee which shall consist of sixteen members, the officers of the society and one person designated annually by the State Archives and Records Commission. The sixteen members of the executive committee shall be divided into four equal classes, so arranged that the terms of one class shall expire at each annual meeting of the society. The class whose term expires shall be ineligible to succeed itself.

V[VIII]

The executive committee shall execute all the powers and duties conferred on the society, except those expressly delegated to the officers. It shall adopt bylaws at any regular or special meeting. It shall supervise and direct the financial concerns of the society, approve an annual budget and provide for and fix the salaries of employees, subject to the approval of the Department of Personnel. It shall provide for reimbursement of travel expenses of employees and may provide for reimbursement of expenses of officers and members of the

executive committee incurred in performing specific duties assigned to them. It shall appoint a director, who shall be the management officer of the society under the direction of the president and policies established by the executive committee, and an assistant director, who shall assume the duties of the director in his absence and perform such other duties as may be assigned to him by the director. It shall establish and prescribe the duties of such other positions as are necessary to operate the society, and all persons engaged to fill such positions shall be employed by the director, subject to the approval of the executive committee, which approval shall constitute exemption from KRS 18.130, and their work shall be under the director's supervision.

The committee shall provide for the publication or preservation of historical documents and manuscripts; publish an edition to be known as the "Register"; provide by contract, subject to the approval of the Department of Finance, for all the printing, publication and distribution of reports, books and other publications calculated to promote and advance the historical interest of Kentucky and augment the society's various collections at all times. It shall supervise and direct the ordinary affairs of the society; appoint a nominating committee; and determine other necessary committees of which the president and the director of the society shall be ex-officio members. The committee shall cooperate with, provide assistance to and coordinate its functions with those of the State Archives and Records Commission. It may designate honorary members of the society and it shall have the power to fill any vacancies until the next annual meeting, including those occurring within its own membership.

VII[IX]

The executive committee shall hold regular meetings in January, April, July and October. Matters to be determined and discussed at such meetings shall be furnished the director at least ten days prior to such meetings in order that he may prepare and distribute an agenda to each member of the committee at least three days before the meeting. Special meetings shall be held at the request of the president or any three members of the committee, in which case the director shall give written notice together with the agenda of such meeting at least ten days in advance. In an emergency, nine members of the committee may waive the provision of notice.

VII[X]

The regular annual meeting of the society shall be held in the Old State Capitol Building on the first Friday after the first Monday in November. The meeting shall be open to all members. Special meetings may be called in Frankfort or elsewhere by the president or a majority of the executive committee or by the director upon the written request of twenty members of the society. Members shall have fifteen days written notice of the time, place and object of the meeting.

VIII[XI]

Twenty-five members shall constitute a quorum for the transaction of all business at any meeting of the society, and one-third of the membership [of the board of curators or] of the executive committee shall constitute a quorum at their respective meetings.

IX[XII]

The Chancellor of the Society, at his discretion, may preside at any meeting of the Society[, the board of curators] or the executive committee, or he may participate otherwise in any meetings.

X[XIII]

The president of the society shall be the chief executive officer of the society and shall preside over meetings of the society[, the board of curators] or the executive committee in the absence of the chancellor or at his request. He shall recommend the appointment of all necessary or desirable committees and he shall name persons to comprise such committees, except the nominating committee.

XI[XIV]

The vice-presidents of the society shall preside in the absence of their successive superiors in office at all meetings of the society and the executive committee. They shall attend all regular and special meetings of the society and the executive committee and endeavor to familiarize themselves with the conduct and operations of the affairs of the society. They shall aid and assist the president in the performance of his duties, counsel and advise the executive committee and endeavor at all times to advance and promote the public interest in the history of Kentucky and her people.

XII[XV]

Nominations to membership on the executive committee and to the offices of president, first vice-president, second vice-president and third vice-president shall be made by a nominating committee or by any member present at the regular annual meeting. The nominating committee shall consist of five members, shall be appointed at the first regular meeting of the executive committee after the annual meeting of the society and shall consider candidates to fill vacancies in the executive committee and offices which will occur at the subsequent annual meeting. The nominating committee shall meet in the office of the society forty-five days prior to the annual meeting and nominate candidates to fill vacancies on the executive committee and at least one candidate for the office of president, first vice-president, second vice-president, and third vice-president, and file same with the president. Upon the call for the election of officers the president shall

promptly report the nomination by the nominating committee together with all other nominations. When more than the required number of candidates have been nominated for membership on the executive committee or more than one candidate for the offices to be filled, the president shall call for an election by the vote of those present, together with the number of votes cast by proxy, and a plurality of all votes cast shall be sufficient to elect. Where no vote count is required the president shall cast one vote for each candidate and he or she shall be declared elected.

XIII[XVI]

This charter may be amended by a two-thirds vote of the members present and voting at any regular meeting or at any special meeting of the society called for the purpose, provided that written notice containing the substance of the proposed amendments shall have been mailed to members not less than thirty days in advance of such meeting and the same approved as an amendment by the first General Assembly, meeting after the action of the society.

HB 66, AN ACT relating to libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.145 is amended to read as follows:

For the benefit of blind *and physically handicapped* readers of Kentucky, the library department may make available books and other reading matter in Braille, talking books or any other medium of reading used by the blind *and physically handicapped*. To this end, the department is authorized to provide library services for the blind *and physically handicapped* of the commonwealth through contract, agreement or otherwise with the library of congress or any regional library thereof.

Section 2. KRS 171.201 is amended to read as follows:

For grants to public libraries for promoting, aiding and equalizing public library service in Kentucky [, particularly in rural areas,] there may be funds appropriated out of the General Expenditure Fund of the State Treasury.

Section 3. A new section of KRS Chapter 171 is created to read as follows:

The department of libraries is empowered to enter into an agreement with any state for the purpose of providing cooperative library services.

Section 4. KRS 173.340 is amended to read as follows:

(1) The management and control of a library shall be vested in a board of trustees. In cities and counties the board shall consist of five (5) members except that in cities of the second class, it shall consist of seven (7) members. In a library region there shall be five (5) members except if the number of counties exceed five (5) there shall be one (1) trustee from each county in the region.

(2) Within thirty (30) days after the establishment of a library has been authorized by any of the methods authorized by KRS 173.310, a library board shall be appointed. In cities the trustees shall be appointed by the mayor and in counties they shall be appointed by the county judge. In a regional library district the trustees shall be appointed by the joint action of the judges of the respective counties or as may be agreed upon by contract. In any region in which there are four (4) or less counties, provision shall be made in the contract for rotation of members and an equitable adjustment of terms. If a region consists of an even number of counties, the trustees appointed by the judges of the respective counties shall appoint an additional trustee whose term of office shall be four (4) years and whose successor shall be appointed by the trustees in office at the time of expiration of such term. Trustees shall be appointed from the governmental unit at large with special reference to their fitness for such office. Members of the board shall be appointed as follows: two (2) members for two (2) years, one (1) member for three (3) years, and two (2) members for four (4) years respectively, and thereafter trustees shall be appointed to serve four (4) years. *Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves; effective July 1, 1974, exclusive of present terms begun prior to that date.* Vacancies shall be filled for the unexpired terms as soon as possible in the same manner as the original appointments.

(3) A library trustee shall not receive a salary or other compensation for services as a trustee. Before entering upon the duties of his office, a trustee shall take oath that he will faithfully discharge his duties. No board shall employ as a member of its library staff any member of the board or any person related closer than a second cousin to any member of the board. No person is eligible to this office who is directly or indirectly interested in the sale to the library of books, magazines, supplies, equipment, materials, fire insurance or services for which library funds are expended.

(4) A library trustee may be removed only by vote of the legislative body of the respective governmental unit from which he was appointed.

Section 5. KRS173.350 is amended to read as follows:

(1) The board of trustees shall constitute a corporate body with perpetual succession. Within ten (10) days after their appointment the appointive officer shall call a meeting of the library board to organize by the election of such officers as they deem necessary and meet *on a regularly scheduled basis* [regularly] thereafter once each month. If the appointive officer does not call a meeting the trustees may do so on their own initiative.

(2) They shall adopt such bylaws, rules and regulations for their own guidance and for the government of the library as they deem expedient; have the supervision, care and custody of all property of the library including its quarters or buildings; employ a librarian and upon his recommendation employ such other assistants as may be necessary, all in accordance with the statutes relating to the certification of librarians and the rules and regulations adopted by the board pursuant thereto, and fix the compensation of librarians or assistants employed and remove them for cause; submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; allot funds for the purchase of books, periodicals, maps and supplies for the library; and do all other acts necessary for the orderly and efficient management and control of the library.

(3) They may accept such gifts of money or property for library purposes as they deem expedient; lease or purchase land for library buildings; lease, purchase or erect an appropriate building or buildings for library purposes and acquire such other property and equipment as may be needed therefor; and enter into contracts for library service with other library boards and as provided for in subsection (4) of KRS 173.310.

Section 6. KRS 173.490 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended and appointed in the same manner, but for a term of four (4) years each. *Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves; effective July 1, 1974, exclusive of present terms begun prior to that date.* The members shall hold office until their respective successors are appointed and qualified.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge by appointment on recommendation of the department of libraries of two (2) names for each vacancy from the county in which the vacancy occurred.

Section 7. 173.500 is amended to read as follows:

Each board shall be a body corporate under the name and style of "... Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, adopt a seal and organize by electing a president, a secretary and a treasurer, each to serve for a term of two (2) years and until his successor is elected and qualified. The treasurer shall give bond to the commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve. *The board shall meet on a regularly scheduled basis once each month.* A majority of the board shall constitute a quorum.

Section 8. KRS 173.730 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended and appointed in the same manner, but for a term of four (4) years each. *Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves; effective July 1, 1974, exclusive of present terms begun prior to that date.* The members shall hold office until their respective successors are appointed and qualified.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge by appointment on recommendation of the department of libraries of two (2) names for each vacancy from the county in which the vacancy occurred.

Section 9. KRS 173.735 is amended to read as follows:

Each board shall be a body corporate under the name and style of "... Public Library District Board of Trustees." The members shall, as soon as possible after their appointment, adopt a seal and organize by electing a president, a secretary and a treasurer, each to serve for a term of two (2) years and until his successor is elected and qualified. The treasurer shall give bond to the commonwealth for the faithful performance of his duties, in such sum and form and with such sureties as the board shall approve. *The board shall meet on a regularly scheduled basis once each month.* A majority of the board shall constitute a quorum.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Highways and Traffic Safety: **HB 42, HB 167.**

Motions, Petitions and Communications

Representative Whitfield moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Christian County Colonel Marching Band for doing an outstanding job representing Hopkinsville, Christian County and the State of Kentucky at the Tournament of Roses Parade on New Year's Day at Pasadena, California, and call further attention to the fact that their performance was observed on nationwide television on the major networks. This body extends its best wishes to the Christian County Marching Band for its performances in the future. (Sponsored by Representatives Whitfield and Bruce)

Agreed.

Representative DeMarcus moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby presents to those responsible for the order of the roll call a can of alphabet soup in recognition of their ability to list alphabetically the members of this body, whereby, the names of Representatives DeMarcus and Denham follow the name of Representative Dietz. (Sponsored by Representatives Denham and DeMarcus)

On the roll call the vote was yeas 44-Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Bruce, Chandler, Davis, DeMarcus, Denham, Dunn, Foster, Graves, Guenther, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Kafoglis, Kidd, Lindsay, Loudon, Mann, Mason, McBee, McBrayer, McBride, Pearman, Priddy, Rattliff, Robinson, Schmaedecke, Schmidt, Siemens, Stone, Vincent, Watkins. Nays 32-Adams, Arnold, Benson, Beshear, R. Brown, Burch, Clarke, Crupper, Dawahare, Donnermeyer, Givhan, Harris, Kareem, Kenton, Little, O'Brien, Paxton, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Stephens, Swinford, Troop, Turner, Van Horn, J. White, Whitfield, Wible, Yates.

The Citation was adopted.

Representatives Holbrook, Hopkins, Hislope and Foster requested that their names be added as co-sponsors of **HB 187.**

HR 6, by Representative Swinford: A CONCURRENT RESOLUTION relating to Kentucky's Bicentennial Celebration.

HR 6, A CONCURRENT RESOLUTION relating to Kentucky's Bicentennial Celebration.

WHEREAS, 1974 marks the 200th Anniversary of the first permanent settlement in Kentucky at Fort Harrod; and

WHEREAS, the General Assembly deems it appropriate and proper to take due notice of this distinguished observance as one of its initial activities before the 1974 Session; and

WHEREAS, the General Assembly, as the people's branch of government, constitutes the most fitting place for the official declaration of 1974 as Kentucky's "Bicentennial Year"; and

WHEREAS, the American Enterprise Institute for Public Policy Research with its Distinguished Lecture Series will commemorate the 200th Anniversary of the Declaration of Independence with appearances by renowned historians at locations of significance to such event across the nation; and

WHEREAS, an appearance by Dr. Gordon Stewart Wood, one of 16 distinguished lecturers before a joint session of the Kentucky General Assembly in Frankfort would constitute the first such lecture beyond historic sites in the original 13 states of the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That on Wednesday, January 9, 1974, a joint committee of the Senate and the House of Representatives be appointed to wait upon the Honorable Wendell H. Ford, Governor of the Commonwealth of Kentucky, and upon the Honorable Gordon Stewart Wood of the American Enterprise Institute for Public Policy Research, and to escort them at 7:30 p.m. (CDT) on such date to the chamber of the House of Representatives to appear before a Joint Session of the General Assembly, to which they are hereby invited;

Section 2. That in addition on such date and at such time the General Assembly invites as well the following persons as its guests to have the privilege of the floor at such Joint Session:

The Honorable Earl T. Osborne, Chief Justice of the Court of Appeals;
 The Honorable John S. Palmore, Justice of the Court of Appeals;
 The Honorable Scott Reed, Justice of the Court of Appeals;
 The Honorable James B. Stephenson, Justice of the Court of Appeals;
 The Honorable Pleas Jones, Justice of the Court of Appeals;
 The Honorable James B. Milliken, Justice of the Court of Appeals;
 The Honorable Samuel S. Steinfeld, Justice of the Court of Appeals;
 The Honorable Frances Jones Mills, Clerk of the Court of Appeals;
 The Honorable Ed Hancock, Attorney General of Kentucky;
 The Honorable Thelma Stovall, Secretary of State of Kentucky;
 The Honorable Mary Louise Foust, State Auditor of Kentucky;
 The Honorable Drexell Davis, Treasurer of Kentucky;
 The Honorable Wendell P. Butler, Commissioner of Agriculture of Kentucky; and
 The Honorable Lyman P. Ginger, Superintendent of Public Instruction of Kentucky.

Section 3. That the Clerk of the House of Representatives is hereby directed to notify by letter each person herein named, as to their invitation to appear at such Joint Session of the General Assembly.

Representative Swinford moved that **HR 6** be adopted.

On the roll call the vote was yeas 95-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HR 6 was adopted.

Representative Hinkle moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Education reported **HB 51** and **HB 59** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 51, AN ACT relating to the experimental operation of school programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.065 is amended to read as follows:

[It is the intention of the General Assembly in KRS 157.320, 157.360, 157.370, and 158.065 to 158.080 to authorize a local board of education to experiment in the operation of public elementary and secondary schools on a year-round school program basis during the 1972-74 biennium. The primary objective of this legislation is to improve educational opportunities for the children and youth of the Commonwealth by permitting a greater flexibility of choices in times of attendance and subjects elected. The secondary objective is to permit a more efficient use of school buildings, facilities and personnel.]

(1) *It is the intention of the general assembly in this Act to permit the state board of education, upon recommendation of the state superintendent of public instruction, to authorize a local board of education to operate public elementary and secondary schools on a basis other than the standard school day, month or year for purposes of experimentation. The objective of this legislation is to encourage experimentation that may result in improved quality of education or more efficient use of educational resources in the state.*

(2) *The state board of education, upon recommendation of the superintendent of public instruction, is hereby authorized to select no more than three school districts, from those approved for year-round school programs under the provisions of KRS 157.320(15), for special funding. School districts selected under this provision shall use for average daily attendance the aggregate days attendance of full-time equivalent pupils from July 1 to June 30 divided by 175 days. The state board of education, upon recommendation of the superintendent of public instruction, shall extend the special funding for a period of not less than three years nor more than five years.*

(3) *The state board of education, upon recommendation of the superintendent of public instruction, is hereby authorized to select no more than the three school districts to operate programs on a basis other than those required under the provisions of KRS 158.060. The state board of education, upon recommendation of the superintendent of public instruction, shall adopt regulations which will permit school districts selected under the provisions of this subsection to operate experimental programs without loss of state funds due to the experimental nature of the program.*

(4) *The state superintendent of public instruction shall make thorough cost, benefit and effectiveness analyses and evaluations of all experimental programs operating under the provisions herein and shall make annual progress reports and, at the earliest appropriate time, final recommendations to the legislature with respect to their continuation, expansion, or termination.*

HB 59, AN ACT relating to sick leave for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) For the purpose of this section, "teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days' sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a reputable physician stating that the teacher, or a member of his immediate family was ill on the day or days absent. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate and be credited to that teacher. Accumulated sick leave may be taken in any school year or years, except that no teacher shall be entitled to take more than sixty (60) days of accumulated sick leave unless the district board of education authorizes a greater number of days to be accumulated. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section.

(4) *Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a reputable physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.*

The Committee Amendment to **HB 59** is as follows:

Amend printed copy of House Bill 59, page 1, line 12, by deleting the word "reputable" and on page 2, line 12, by deleting the word "reputable"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Counties and Special Districts: **HB 3, HB 4, HB 5, HB 6, HB 10.**

Motions, Petitions and Communications (continued)

Representative Swinford moved the adoption of the following **HR 7:**

HR 7, A RESOLUTION expressing the opinion of the House of Representatives that all meetings of standing committees of the House be open to the public.

WHEREAS, members of the House are the elected representatives of the citizens of this Commonwealth; and

WHEREAS, it is the duty of this House and the committees thereof to conduct the people's business in a manner which will stir the confidence and respect of the populace;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That it is the expression of the Kentucky House of Representatives that all meetings of the standing committees of this House be open to the public, and may only be closed by a majority vote of the committee membership.

Agreed.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 188, by Representatives Blandford, Swinford and Wible: AN ACT relating to counties containing a population of 75,000 or more.

HB 189, by Representative Swinford: AN ACT relating to the termination of fathers' rights to children born out of wedlock.

HB 190, by Representative Imes: AN ACT relating to the operation of motor vehicles.

HB 191, by Representatives Kenton, Hinkle, Van Horn, Stephens and Beshear: AN ACT relating to court costs.

HCR 8, by Representative Imes: A CONCURRENT RESOLUTION calling on the United States Congress to appropriate monies to set up and fund a grant for research into development of an automotive carburetor which will provide improved gas mileage.

Announcements

The Committee Chairmen announced the following meetings on January 10, 1974:

Counties and Special Districts	Room 305	10:00 A.M.
Business Organizations and Professions	Room 305A	11:00 A.M.
Public Utilities and Transportation	Room 307	9:30 A.M.
Appropriations and Revenue	Room 305	11:00 A.M.

Recess

Representative Swinford moved that the House recess until 7:15 P.M., January 9, 1974. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 12, HB 20, HB 28, HB 29, HB 31.**

Representative Quickert moved that the rules be suspended for the purpose of receiving a report concerning alcoholic beverage control regulations from the Legislative Research Commission. Agreed.

Representative Quickert moved that copies of the report be forwarded to the appropriate committees. Agreed.

Senate Message

Announcing passage of **HCR 6.**

The Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate.

Representative Swinford moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, assumed the Chair.

Representative Swinford moved that the House and Senate resolve into Joint Session for the purpose of hearing the presentation of a program commemorating Kentucky's Bicentennial Celebration. Agreed.

Representative Swinford moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by Dr. John C. Chenault, First Christian Church, Frankfort.

A committee from the House composed of Representatives Reynolds, Paxton, and Sharpe, with a like committee from the Senate, appointed to wait upon and escort the Honorable Wendell H. Ford, Governor of Kentucky, and the Honorable Gordon Stewart Wood, Professor of History, Brown University, Providence, Rhode Island, to a Joint Session commemorating Kentucky's Bicentennial Celebration, appeared in the House Chamber with the Governor and Dr. Wood.

Lieutenant Governor Julian M. Carroll introduced the Honorable Wendell H. Ford, Governor of Kentucky.

Governor Ford addressed the Assembly.

Governor Ford introduced Dr. Wood, who addressed the Assembly.

Lieutenant Governor Carroll requested Speaker Blume to join him in accepting, on behalf of the General Assembly, the First Bicentennial Flag of the Commonwealth of Kentucky presented by the Color Guard.

Lieutenant Governor Carroll introduced Mr. William C. Lathon, Louisville, who performed for the Assembly.

The Clerk read the following message to the Assembly from the Honorable Walter D. Huddleston, United States Senator:

I regret very much that I am unable to be with you at the official opening ceremony of the Kentucky '74 Bicentennial celebration.

I want to take this opportunity to pledge my support and assistance to the many Kentuckians who will be involved in presenting the historic story of our commonwealth during this great celebration.

Representative Swinford moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Adjournment

Representative Swinford moved that the House adjourn until 1:00 P.M., Thursday, January 10, 1974.

On the roll call the vote was yeas 50-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Chandler, Davis, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Head, Hellard, Hinkle, Holbrook, Hopkins, Imes, Isler, Karem, Kenton, King, Kleier, Lewis, Little, Mason, May, McBee, McBrayer, McBride, Morgan, Paxton, Quickert, Richardson, Romines, Sale, Schmidt, Sharpe, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Whitfield, Wible. Nays 0.

The motion to adjourn was adopted.

THURSDAY, JANUARY 10, 1974

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Allen, Blythe, Hurst, Overstreet, and Smith.

The Speaker introduced the Honorable Robert K. Bennett, Mayor of the City of Frankfort. Mayor Bennett made a welcoming address.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 9, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 192, by Representative Gay: AN ACT relating to broad form deeds.

HB 193, by Representative Gay: AN ACT relating to membership in the Teachers' Retirement System.

HB 194, by Representative Gay: AN ACT relating to vocational education teachers.

HB 195, by Representative Gay: AN ACT relating to school transportation.

HB 196, by Representative Gay: AN ACT relating to expense allowances for constables.

HB 197, by Representative Gay: AN ACT relating to contracts for school personnel.

HB 198, by Representative Gay: AN ACT relating to carrying concealed deadly weapons.

HB 199, by Representative Gay: AN ACT relating to public school employees.

HB 200, by Representative Gay: AN ACT relating to teachers' retirement.

HB 201, by Representative Gay: AN ACT relating to education.

HB 202, by Representatives Quickert, Hughes, Karem, Nett, Priddy, Burch, Maynard, Yates, Dunn, Bennett, Blythe, Romines, Siemens, Chandler and Benson: AN ACT relating to state chartered banks.

HB 203, by Representative McBride: AN ACT relating to garbage and refuse disposal districts.

HB 204, by Representatives Dunn, Priddy, O'Brien, Bennett, Romines and Hughes: AN ACT relating to county commissioners.

HB 205, by Representatives Schmaedecke and Schmidt: AN ACT relating to the offices of clerks, sheriffs, and jailers in counties having a population of 75,000 or more.

HCR 9, by Representative Gay: A CONCURRENT RESOLUTION memorializing Congress to require all vendors of gasoline to roll back prices.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 91, HB 92, HB 110, HB 127, HB 129, HB 130, HB 131, HB 146, HB 155, HB 157, HB 159, HB 162, HB 182, HB 185.**

Agriculture and Natural Resources: **HB 9, HB 78, HB 96, HB 128, HB 156, HB 180.**

Business Organizations and Professions: **HB 81, HB 112, HB 123, HB 124, HB 164, HB 174.**

Cities: **HB 2, HB 39, HB 79, HB 108, HB 117, HB 126, HB 132, HB 147.**

Counties and Special Districts: **HB 97, HB 188.**

Education: **HB 40, HB 41, HB 47, HB 55, HB 56, HB 60, HB 63, HB 86, HB 105, HB 154, HB 160, HB 173.**

Health and Welfare: **HB 52, HB 58, HB 65, HB 113, HB 136, HB 137, HB 139, HB 143.**

Highways and Traffic Safety: **HB 75, HB 104, HB 133, HB 134, HB 135, HB 179.**

Judiciary: **HB 7, HB 45, HB 53, HB 74, HB 77, HB 90, HB 93, HB 94, HB 102, HB 103, HB 109, HB 111, HB 119, HB 120, HB 122, HB 148, HB 149, HB 151, HB 172, HB 187, HB 189, HB 190, HB 191.**

Labor and Industry: **HB 50, HB 70, HB 71, HB 87, HB 106, HB 141, HB 150.**

State Government: **HB 8, HB 22, HB 30, HB 43, HB 80, HB 99, HB 100, HB 101, HB 114, HB 115, HB 118, HB 140, HB 142, HB 144, HB 145, HB 152, HB 161, HB 163, HB 175, HB 177, HB 181, HB 183.**

Banking and Insurance: **HB 186.**

Elections and Constitutional Amendments: **HB 14, HB 23, HB 62, HB 88, HB 89, HB 95, HB 138, HB 158, HB 165.**

Public Utilities and Transportation: **HB 76, HB 82, HB 178.**

Speaker Pro Tempore Paxton presiding.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 12, HB 28, HB 29** and **HB 31** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 12, AN ACT relating to the management and use of investments held by eleemosynary institutions and funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 273.405 to 273.440 is created to read as follows:

In this Act, unless the context otherwise requires:

(1) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

(2) "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include:

(a) A fund held for an institution by a trustee that is not an institution; or

(b) A fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

(3) "Endowment fund" means an institutional fund, or any part thereof, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

(4) "Governing board" means the body responsible for the management of an institution or of an institutional fund.

(5) "Historic dollar value" means the aggregate fair value in dollars of:

(a) An endowment fund at the time it became an endowment fund;

(b) Each subsequent donation to the fund at the time it is made; and

(c) Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

(6) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

Section 2. A new section of KRS 273.405 to 273.440 is created to read as follows:

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by Section 6 of this Act. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Section 3. A new section of KRS 273.405 to 273.440 is created to read as follows:

Section 2 of this Act does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

Section 4. A new section of KRS 273.405 to 273.440 is created to read as follows:

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board, subject to any specific limitations set forth in the applicable gift instrument or in the applicable law other than law relating to investments by a fiduciary, may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are co-mingled and investment determinations are made by persons other than the governing board.

Section 5. A new section of KRS 273.405 to 273.440 is created to read as follows:

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) Delegate to its committees, officers or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in investment and reinvestment of institutional funds;

(2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and

(3) Authorize the payment of compensation for investment advisory or management services.

Section 6. A new section of KRS 273.405 to 273.440 is created to read as follows:

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

Section 7. A new section of KRS 273.405 to 273.440 is created to read as follows:

(1) With the written consent of the donor, the governing board may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

(2) If written consent of the donor cannot be obtained by reason of his death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the circuit court of the county in which the institution's principal office is located for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The Attorney General shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the

restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.

(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(4) This section does not limit the application of the doctrine of *cy pres*.

Section 8. A new section of KRS 273.405 to 273.440 is created to read as follows:

This Act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this Act among those states which enact it.

Section 9. A new section of KRS 273.405 to 273.440 is created to read as follows:

This Act may be cited as the "Uniform Management of Institutional Funds Act."

HB 28, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, *provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables.* [which has been bona fide in business as a licensee in premises located above or below the ground floor for at least one (1) year preceding the date on which its application for a license is made.] In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3) (a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located on the same street as, and within two hundred (200) feet of, a building used exclusively as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken on the street on which the licensed premises are located, in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1938, ch. 2, or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied exclusively as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

HB 29, AN ACT relating to the revocation or suspension of alcoholic beverage licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

- (1) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.
- (2) Making any false, material statements in an application for a license.
- (3) Violation of the provisions of KRS 243.670.
- (4) If, within a period of two (2) consecutive years, there shall have been two (2) or more convictions of any licensee or of any of his clerks, servants, agents or employes for any violations of the terms and provisions of chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.
- (5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any rules or regulations of the department of revenue made in pursuance thereof.
- (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.
- (7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.
- (8) *Conviction of the licensee, his agents, servants, or employes for:*
 - (a) *The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;*
 - (b) *Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.*

HB 31, AN ACT relating to females on premises licensed for the sale of alcoholic beverages by the drink.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.100 and 244.320 are repealed.

The Committee on Counties and Special Districts reported **HB 4** with Committee Amendment attached thereto and **HB 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to county commissioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.060 is amended to read as follows:

- (1) If a majority of the votes cast at an election held under KRS 67.050 are in favor of the fiscal court being composed of the county judge and three (3) commissioners, the county judge shall, before the next regular election for county officers, divide the county into three (3) districts as nearly equal in population as practicable, and shall establish the boundary lines of each of the three (3) commissioner districts so that each district is an unbroken area and not split or divided by another commissioner district. [and at] At the next regular election for county officers, and every four (4) years thereafter, there shall be elected by the voters of

the entire county three (3) commissioners, one (1) from each district who, with the county judge, shall constitute the fiscal court.

(2)(a) In any county containing a city of the first class, which county has heretofore voted in favor of a fiscal court composed of the county judge and three (3) county commissioners, the county judge shall divide the county into three (3) districts as provided in subsection (1), the districts to be designated for identification purposes by the letters A, B, and C, respectively.

(b) The three (3) commissioners shall be elected by the qualified voters of the county at large at regular elections held every four (4) years. One (1) commissioner shall represent District A and shall be elected at the regular election in the year 1973, and two commissioners who shall represent Districts B and C, respectively, shall be elected at the regular election in the year 1975.

(3) To be eligible for election as a commissioner representing one (1) of the three (3) districts, a person shall have been a bona fide resident of the district he proposes to represent for at least one (1) year immediately preceding the election, and, upon election, shall continue to reside within the district he was elected to represent for the duration of his term of office, under penalty of forfeiture of the office.

(4) Commissioners elected under this section shall take the oath of office and enter upon the discharge of their duties on the first Monday in January after their election, and shall serve for terms of four (4) years and until their successors are elected and qualify.

(5) No person is eligible to be a county commissioner unless he is at least twenty-four (24) years of age and has been for two (2) years next preceding his election a resident of the county and citizen of Kentucky.

Section 2. KRS 67.063 is amended to read as follows:

(1) All counties having three (3) county commissioners as provided in KRS 67.050 shall have their districts reapportioned not later than sixty (60) days after the publication of the decennial census. The fiscal court shall, in open court, appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different portions of the county and in different county commissioner districts, as reapportionment commissioners to reapportion the county into three (3) county commissioner districts, as nearly equal in territory and population as possible. When there is a tie vote in the appointment of any reapportionment commissioner, the tie shall be broken as provided by KRS 67.070 and 67.040. The reapportionment commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury such compensation as may be fixed by the fiscal court.

(2) The reapportionment commissioners shall within twenty (20) days after they are sworn in lay off boundary lines of the district *and shall establish the district boundary lines so that each district is an unbroken area and not split or divided by another county commissioner district.* No boundary of a commissioner's district shall cross the boundary line of an election precinct. They shall file in the office of the county clerk a written report, showing the boundary of each district and the estimated population in each. At the next regular term of the county court commencing not later than thirty (30) days after the filing of the report, any citizen of the county may file exceptions, and the court shall fix a day not later than ten (10) days after the filing of the exceptions for the trial thereof. On the trial the court shall dispose of the exceptions and, by order entered of record, establish the reapportioned boundaries of the districts.

The Committee Amendment to **HB 4** is as follows:

Amend printed copy of House Bill 4 page 3, line 17, by deleting "territory and"

HB 5, AN ACT relating to powers of fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.080 is amended to read as follows:

The fiscal court may:

(1) Appropriate county funds authorized by law to be appropriated;

(2) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings, such as courthouses, clerk's offices, poorhouses, jails and workhouses, or for the care and support of paupers; or the fiscal court may appoint one or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(3) Erect and keep in repair necessary public buildings;

- (4) Secure a sufficient jail and a comfortable and convenient place for holding court at the county seat;
- (5) Erect, keep in repair and superintend bridges and other structures;
- (6) Regulate and control the fiscal affairs and property of the county;
- (7) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services, not to exceed \$7,200 [\$2,400] per annum [, except that in counties containing a city of the second class such person may be paid a reasonable compensation for such services, not to exceed \$3,600 per annum.];
- (8) Make provision for the maintenance of the poor, provide a poorhouse and poor farm, appropriate county funds for the benefit of infirmaries for the sick located in the county, provide for the care, treatment and maintenance of the sick and poor and provide a hospital for that purpose, or contract with any hospital in the county to do so;
- (9) Provide for the good condition of the highways in the county;
- (10) Appropriate county funds to make provision to secure immigration into the county and to advertise the resources of the county;
- (11) Appropriate county funds for the benefit of colleges located in the county, or colleges located in adjoining counties;
- (12) Execute all of its orders consistent with law and within its jurisdiction of all such other matters relating to the levying of taxes as is conferred on the fiscal court by law;
- (13) Exercise all the corporate powers of the county unless otherwise provided by law; and
- (14) Cause the construction or reconstruction of access roads when, in the opinion of the fiscal court after receiving the recommendation of the county road engineer, the construction or reconstruction of the access roads would serve as an inducement to industrial location or a substantial expansion of industry, and the estimated cost of the project is less than twenty-five thousand dollars (\$25,000).

The Committee on Public Utilities and Transportation reported **HB 64**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to oil and gas conservation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

- (1) "Department" means the department of mines and minerals as defined in KRS 351.010;
- (2) "Commissioner" means the commissioner of the department of mines and minerals as defined in KRS 351.010;
- (3) "Director" means the director of oil and gas conservation as provided in KRS 353.530;
- (4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in Section 3 of this act;
- (5)[(4)] "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator or fiduciary of any kind;
- (6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;
- (7)[(5)] "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;
- (8)[(6)] "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined above as oil;
- (9)[(7)] "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;
- (10) "Field" means the general area which is underlaid or appears to be underlaid by at least one pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool"

mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

(11) *"Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;*

(12)[(8)] *"Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;*

(13)[(9)] *"Workable bed" means:*

(a) *A coal bed actually being operated commercially;*

(b) *A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or*

(c) *A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;*

(14)[(10)] *"Well" means a borehole drilled, or proposed to be drilled, for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or a borehole drilled or proposed to be drilled for the purpose of injecting any water, gas or other fluid therein or one into which any water, gas or other fluid is being injected;*

(15) *"Shallow well" means any well drilled and completed at a depth less than four thousand feet except, in the case of any well drilled and completed east of longitude line 84° 30', shallow well means any well drilled and completed at a depth less than four thousand feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth.*

(16) *"Deep well" means any well drilled and completed below the depth herein provided for a shallow well.*

(17)[(11)] *"Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool; [person who proposes to or does locate, drill, operate, or abandon any well.]*

(18) *"Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subdivision sixteen of this section.*

(19) *"Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit.*

Section 2. KRS 353.520 is amended to read as follows:

(1) KRS 353.500 to 353.720 shall apply to all lands located in the commonwealth, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the commonwealth has jurisdiction under its police power.

(2) The waste of oil and gas is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil and gas industry and includes:

(a) *The locating, drilling equipping, operating or [and] producing of any oil or gas well, or wells drilled, deepened, or reopened in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or regulation promulgated or issued under KRS 353.500 to 353.720;*

(b) *Permitting the migration of oil, gas or water from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable oil or gas, or both;*

(c) *The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;*

(d) *The unreasonable damage to underground, fresh or mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production or handling of oil and gas; [and]*

(e) *The unnecessary or excessive surface loss or destruction of oil or gas[.] or their constituents; and*

(f) *The drilling of more wells than are reasonably required to recover efficiently the maximum amount of oil and gas from a pool.*

(3) The production of oil or gas from any well in any pool unless a permit has been issued as required by KRS 353.500 to 353.720, or in violation of the spacing provisions of KRS 353.500 to 353.720, is prohibited; except that this subsection shall not prohibit the continuation of production of oil or gas from a well producing oil or gas on June 16, 1960.

Section 3. A new section of KRS Chapter 353 is created to read as follows:

(1) There is hereby created in the Department of Mines and Minerals, the "Kentucky Oil and Gas Conservation Commission" which shall be composed of five members. Four of the members shall be appointed by the governor and the fifth member, who shall serve as chairman of the commission, shall be the Director of Oil and Gas Conservation. The four members appointed by the governor must be residents of this state and two of them must have had at least five years' experience in the exploration for or production of oil or gas. The commission shall not contain more than one representative from any one operator, including subsidiaries or affiliates. Of the four members appointed by the governor, two shall be residents of Eastern Kentucky and two shall be residents of Western Kentucky. Longitude line 84° 30' shall be deemed as the division line between Eastern Kentucky and Western Kentucky.

(2) The members of the commission, except the chairman, shall be appointed for terms of four years each, except that the original appointments shall be for terms of one, two, three and four years respectively. Each member appointed by the governor shall serve until his successor has been appointed and qualified. Members may be reappointed by the governor to serve successive terms. The members of the commission, before performing any duty hereunder, shall take oath which shall be certified by the officer administering it. The oath in writing and the certificate shall be filed in the office of the Secretary of State. Vacancies in the membership appointed by the governor shall be filled by appointment by him and for the unexpired term of the member whose office shall be vacant and such appointment shall be made by the governor within sixty days of the occurrence of such vacancy. Any member appointed by the governor may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance of office.

(3) The commission shall meet at such times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two members. Notification of each meeting shall be given in writing to each member by the chairman at least five days in advance of the meeting. Any three members, one of which may be the chairman, shall constitute a quorum for the transaction of any business, including the holding of hearings, as hereinafter provided for. A majority of the commission present shall be required to determine any issue brought before it for decision.

(4) Each member of the commission, except the chairman, shall receive thirty-five dollars per diem not to exceed one hundred days per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission, including the chairman, shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.

(5) The commission shall execute and carry out, administer and enforce the provisions of Sections 5 and 6 of this act in the manner provided herein. The commission shall have jurisdiction and authority over all persons and property necessary therefor. The commission may make such investigation of records and facilities as it deems proper.

(6) In the event an emergency is found to exist by the commission which, in its judgment, requires the making, changing, renewal, or extension of a rule, regulation, or order without first having a hearing, such emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order hereby permitted shall remain in force no longer than forty-five (45) days from its effective date, and, in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

(7) The commission shall have specific authority to:

(a) Make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission and otherwise administer the provisions of Sections 5 and 6 of this act; and

(b) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of Sections 5 and 6 of this act.

(8) Any interested person may have the commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the commission by making a request therefor in writing. Upon the receipt of any such request, the commission promptly shall call a hearing thereon, and, after such hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

(9) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool, or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the commission, are hereby authorized and shall not be held or construed to violate any of the laws of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

Section 4. KRS 353.610 is amended to read as follows:

(1) Except as provided in KRS 353.500 to 353.720, no permits shall be issued for the drilling, deepening, or reopening of any *shallow* well for the production of oil, unless the proposed location of the well shall be at least *three hundred thirty (330)* [two hundred (200)] feet from the nearest boundary of the premises upon which the well is to be drilled, deepened or reopened; and, [if the proposed location is less than four hundred (400) feet from any boundary line of the premises,] the proposed location must be at least *six hundred sixty (660)* [four hundred (400)] feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce oil from the same pool.

(2) Except as provided in KRS 353.500 to 353.720, no permit shall be issued for the drilling, deepening or reopening of any *shallow* well for the production of gas unless the proposed location of the well shall be at least five hundred (500) feet from the nearest boundary of the premises upon which such well is to be drilled, deepened or reopened; and, [if the proposed location is less than one thousand (1,000) feet from any boundary line of the premises,] the proposed location must be at least one thousand (1,000) feet from the nearest gas producing well. This subsection shall not be construed to regulate the distance between wells which do not produce gas from the same pool.

(3) This section shall not apply:

(a) To wells drilled, deepened, or reopened for the injection of water, gas or other fluids into an oil or gas producing formation.

(b) To any well drilled, deepened or reopened in a pool or portion thereof, which is included in a secondary recovery program commenced or proposed, if the location or proposed location of the well conforms to a geometric pattern already established on all premises which will be offset and affected by the well.

(c) To wells drilled or deepened as water supply wells and geological or structure test holes; or

(d) To premises within the limits of any incorporated city, town or village which has enacted or enacts hereafter an ordinance regulating the location or spacing of wells for the production of oil and gas at distances of not less than the distances prescribed in this section.

Section 5. A new section of KRS Chapter 353 is created to read as follows:

The following provisions of this section shall apply to any deep well:

(1) Drilling units:

(a) The commission shall, after notice and a hearing, regulate the drilling and location of wells in any pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his fair and equitable share of the recoverable oil and gas in such pool.

(b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, establish a drilling unit for each pool. The spacing of wells in proved oil and gas fields shall be governed by special rules for that particular field adopted after notice and hearing. Wells drilled in areas not covered by special field rules shall be governed by statewide rules adopted by the commission after notice and hearing. Notices of hearings prescribed herein shall be given by the commission in accordance with KRS Chapter 424. Each such notice shall specify the date, time and place of hearing and contain such other information as is essential to the giving of proper notice.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled in accordance with the rules and regulations promulgated by the commission and in accordance with a spacing pattern fixed by the commission for the pool in which the well is located, with such exceptions as may be reasonably necessary where it is shown, in accordance with regulations adopted by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at such location unduly burdensome. Whenever an exception is granted, the commission shall take such action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception.

(d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one deep well so as to produce the reasonable maximum recoverable oil or gas in such

area, unless an exception is granted in accordance with regulations adopted by the commission.

(e) An order establishing drilling units may be modified, altered, extended, amended or vacated by the commission after notice and hearing as prescribed above.

(2) Pooling of interests in Drilling Units:

(a) When two or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after notice given by the commission in accordance with KRS Chapter 424, and after a hearing, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing production therefrom. Each such pooling order shall be upon terms and conditions which are just and reasonable.

(b) All operations, including, but not limited to, the commencement, drilling or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from such tract by a deep well drilled thereon.

(c) Any pooling order under the provisions of subsection (2) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate such deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging and abandoning such deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein.

(d) Upon request, any such pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable.

(e) In the event a nonparticipating owner elects to participate in the drilling, and an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating owner as provided in the pooling order, then such operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of such nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of such tracts or portions thereof, or exclusive of one-eighth of the production attributable to all unleased tracts or portions thereof, until the market value of such nonparticipating owner's share of the production, exclusive of such royalty, overriding royalty or one-eighth of production, equals twice the share of such costs payable by or charged to the interest of such nonparticipating owner.

(f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.

(3) This section shall not apply to wells drilled, deepened or reopened for the injection of water, gas or other fluids into any sub-surface formation.

Section 6. A new section of KRS Chapter 353 is created to read as follows:

(1) Upon the application of any operator in a pool productive of oil or gas, or both, and other minerals which may be associated and produced therewith and after notice given by the commission in accordance with KRS Chapter 424, and after a hearing, the commission may enter an order requiring the unit operation of a pool or of any portion or combinations thereof within a field. Such unit operation shall be in connection with a program designed to avoid the drilling of unnecessary wells, or otherwise to prevent waste, or to increase the ultimate recovery of the unitized minerals by additional recovery methods. The order shall provide for the unitization of separately owned tracts and interests within such pool or pools, but only after finding that:

(a) Said order is reasonably necessary for the prevention of waste;

(b) The proposed plan of unitized operation will increase the ultimate recovery of oil or gas, or both, from the pool and will be economically feasible;

(c) The production of oil or gas, or both, from the unitized pool can be allocated in such a manner as to insure the recovery by all owners of their just and equitable share of such production; and

(d) A contract incorporating the unitization agreement has been signed or in writing ratified or approved by the owners of at least seventy-five (75) per cent in interest as costs are shared under the terms of the order and by seventy-five (75) per cent in interest as production is to be allocated of the royalty in the unit area, and a contract incorporating the required arrangements for operations has been signed or in writing ratified or approved by the owners of at least seventy-five (75) per cent in interest as costs are shared, and the commission has made a finding to that effect either in the order or a supplemental order.

(2) The order requiring such unit operation shall designate one operator as unit operator and shall also make provision for the proportionate allocation to all operators of the costs and expenses of the unit operation, including a reasonable charge for supervision, which allocation shall be in the proportion that the separately owned tracts share in the production from the unit. In the absence of an agreement entered into by the operators and filed with the commission providing for sharing the costs of capital investments in wells and physical equipment, and intangible drilling costs, the commission shall provide by order for the sharing of such costs in the same proportion as the costs and expenses of the unit operation; provided, that any operator who has not consented to the unitization shall not be required to contribute to the costs or expenses of the unit operation, or to the cost of capital investment in wells and physical equipment, and intangible drilling costs, except out of the proceeds from the sale of the production accruing to the interest of such operator.

(3) The commission, after notice and hearing as provided above may from time to time by entry of a new or amending order enlarge the unit area by approving agreements adding to such area a pool or any portion or combinations thereof not previously included. Any such order shall not become effective unless and until:

(a) All of the terms and provisions of the unitization agreement relating to the extension or enlargement of the unit area or to the addition of pools or portions or combinations thereof to unit operations have been fulfilled and satisfied and evidence thereof has been submitted to the commission; and

(b) The extension or addition effected by such order has been agreed to in writing by the owners of at least seventy-five (75) per cent in interest as costs are shared in the pool or pools or portions or combinations thereof to be added to unit operations by such order and by seventy-five (75) per cent in interest as production is to be allocated of the royalty owners in said pool, pools, portions or combinations and evidence thereof has been submitted to the commission.

(4) Any agreement, in providing for allocation of production from the unit area, shall first allocate to each pool or portion thereof so added a portion of the total production of oil and gas, or both, from all pools affected within the area, as enlarged, such allocation to be in proportion to the contribution which added pool or portions or extensions thereof are expected to make, during the remaining course of unit operations, to the total production of oil or gas, or both, of the unit as enlarged. The remaining portion of unit production shall be allocated among the separately owned tracts within the previously established unit area in the same proportions as those specified prior to the enlargement.

Section 7. KRS 353.700 is amended to read as follows:

(1) Any person aggrieved by any order issued by the department *or by the commission* under KRS 353.500 to 353.720 *or the provisions of this act* shall have the right to bring a civil action for review of the order by filing a complaint in the circuit court of the county in which the premises or any portion thereof affected by the order is located, or in the Franklin Circuit Court.

(2) The suit shall be brought within thirty (30) days after the order is issued, and in event no suit is filed within the thirty-day period, the order shall be final.

(3) In the suit the burden of proof shall be upon the party complaining of the order, and the order shall be deemed prima facie valid. Any party to the suit may offer in evidence all or any part of the record of the hearing which resulted in the order, and any other relevant evidence.

(4) *On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the commission. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the commission acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity to the provisions of KRS Chapter 353; and whether the findings of fact support the order. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.*

(5)[(4)] The practice, pleading and proceedings in the suit shall be in accordance with the Rules of Civil Procedure.

(6)[(5)] In the suit the court may stay the order until the court shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order or remanding the cause with directions to modify the order so that it shall conform to the provisions of KRS 353.500 to 353.720 *and to the provisions of this act*. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

Section 8. KRS 353.991 is amended to read as follows:

(1) *Any person who violates any provision of KRS 353.570 shall be subject to a fine of not more than two hundred dollars (\$200) or imprisonment for a term not exceeding thirty days, or both.*

(2)[(1)] Any person, who continues to violate any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 after being notified in writing of the violation by the department shall be subject to a fine of not more than two hundred dollars (\$200) or imprisonment for a term not exceeding thirty (30) days, or both.

(3)[(2)] Any person, who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720, or any rule, regulation, or order promulgated or issued under KRS 353.500 to 353.720, shall be subject to a fine of not more than two hundred dollars (\$200) or imprisonment for a term not exceeding thirty (30) days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by KRS 353.500 to 353.720, or by any rule, regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720, or by any rule, regulation, or order;

(c) Removes from this commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum as required by KRS 353.500 to 353.720, or by any rule, regulation, or order.

(4) *Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 shall be subject to the same penalty as that prescribed in this section for the violation by such other person.*

The Committee Amendment to **HB 64** is as follows:

Amend printed copy of House Bill 64 page 25, line 18, by adding a new section as follows:

Section 9. *Whereas there is an immediate need to encourage exploration for oil and gas, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.*

Calendar

HB 51, HB 57, HB 59, HB 66, HB 171, and HB 184 taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Speaker Blume presiding.

Representative Hopkins moved that the rules be suspended for the Introduction of Bills and Resolutions. Agreed.

HR 11, by Representative Hopkins: A RESOLUTION expressing the opinion of the House of Representatives that all meetings of the Committee on Committees and the Rules Committee of the House be open to the public.

Representative Hopkins moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION expressing the opinion of the House of Representatives that all meetings of the Committee on Committees and the Rules Committee of the House be open to the public.

WHEREAS, members of the House are the elected representatives of the citizens of this Commonwealth; and

WHEREAS, it is the duty of this House and the committees thereof to conduct the people's business in a manner which will stir the confidence and respect of the populace;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That it is the expression of the Kentucky House of Representatives that all meetings of the Committee on Committees and the Rules Committee of this House be open to the public.

Representative Swinford moved that **HR 11** be withdrawn.

Representative Kafoglis moved the passage of Representative Swinford's motion.

Representative McBride moved the adoption of the Previous Question **HR 11**.

On the roll call the vote was yeas 61-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, R. Brown, Bruce, Chandler, Clapp, Crupper, Dietz, Denham, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Hinkle, Imes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Reynolds, Romines, Sale, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Whitfield, Wible. Nays 16-Brewer, Davis, DeMarcus, Guenthner, Hardin, Holbrook, Holloway, Hopkins, Hughes, Karem, Quickert, Robinson, Schmaedecke, Schmidt, Thomas, J. White.

The Previous Question on **HR 11** was adopted.

Representative McBride moved that **HR 11** be laid on the Clerk's desk.

On the roll call the vote was yeas 76-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, E. Brown, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Dietz, Denham, Donnermeyer, Foster, Freeman, Givhan, Graves, Hancock, Harris, Head, Hellard, Hinkle, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 13-Brewer, DeMarcus, Dunn, Guenthner, Hardin, Holbrook, Holloway, Hopkins, Maynard, Rattliff, Robinson, Schmaedecke, Schmidt.

The motion that **HR 11** be laid on the Clerk's desk was adopted.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

HR 10, by Representatives Rattliff and Swinford: A RESOLUTION to adjourn the House on Thursday, January 10, 1974, in memory of Roy Lee Overstreet.

Representative Swinford moved that a roll call be taken to show additional co-sponsors of **HR 10**. Agreed.

The following members voted to co-sponsor **HR 10**: Representatives Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Dietz, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates.

Representative Swinford moved the adoption of the following **HR 10**:

HR 10, A RESOLUTION to adjourn the House on Thursday, January 10, 1974 in memory of Roy Lee Overstreet.

WHEREAS, Casey County has lost one of its truest of friends, and earnest and sincere citizens in Roy Lee Overstreet; and

WHEREAS, during the course of his lifetime he served his community as Minister of the Church of Christ; and

WHEREAS, the members of the General Assembly have the pleasure of knowing and serving with his son, Representative Raymond Overstreet;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House does adjourn on Thursday, January 10, 1974, it does so in memory of Roy Lee Overstreet, and extends its deepest sympathy to his family.

Section 2. That the Clerk of the House be directed to send a copy of this Resolution to the family of Roy Lee Overstreet.

HR 10 was adopted by voice vote.

Motions, Petitions and Communications

Representative Guenthner requested that his name be added as a co-sponsor of **HB 182**.

Representative Swinford filed Floor Amendment No. 2 to **HB 184**.

Representative Hughes moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby honors Judge Bart N. Peak in recognition of his long and distinguished service to the Commonwealth of Kentucky. This body gratefully acknowledges Judge Peak's service beginning as a Page in the Old Capitol and including Judge and Juvenile Court Judge of Fayette County and Representative in the House for three terms. (Sponsored by Representative Hughes)

Agreed.

Representative Swinford moved that the rules be suspended for the purpose of entertaining a motion on adjournment plans. Agreed.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 A.M., Friday, January 11, 1974.

On the roll call the vote was yeas 71-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, Burch, Clarke, Davis, Dietz, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Swinford, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

JANUARY 11, 1974

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Herman M. Bowers, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Allen, Bowles, Freeman, Gay, Hislope, Hurst, McBride and Overstreet.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 10, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 206, by Representative Wells: AN ACT relating to education.

HB 207, by Representative G. White: AN ACT relating to labeling of honey.

HB 208, by Representative Loudon: AN ACT relating to motor vehicles.

HB 209, by Representative Hopkins: AN ACT relating to legislative sessions and compensation.

HR 12, by Representatives Isler, Dietz, Crupper, Loudon, McBee, Mann, Donnermeyer, Schmaedecke, Schmidt, McBrayer and King: A RESOLUTION to adjourn the House of Representatives on Friday, January 11, 1974, in memory of Carl J. Mershon.

Report on Enrolled Bills

The Committee on Enrollment reported **HCR 6** has been examined and found correctly enrolled. **HCR 6** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HCR 6 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 192**.

Appropriations and Revenue: **HB 195**.

Banking and Insurance: **HB 202**.

Counties and Special Districts: **HB 196, HB 203, HB 204, HB 205**.

Education: **HB 193, HB 194, HB 197, HB 199, HB 200, HB 201**.

Judiciary: **HB 198**.

Report of Committees

The Committee on Rules reported **HB 57, HB 66, HB 171, and HB 184** with Committee Amendment and Floor Amendment attached thereto, have been posted for passage in Orders of the Day, January 14, 1974.

The Committee on Rules reported **HB 51** has been recommitted to the Committee on Education for further study.

The Committee on Rules reported **HR 2** has been referred to the Committee on Agriculture and Natural Resources.

Calendar

HB 4 with Committee Amendment attached thereto, **HB 5, HB 12, HB 28, HB 29, HB 31,** and **HB 64** with Committee Amendment attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 48, HB 83, HB 84, HB 85, HB 52, HB 58, HB 65, HB 113, HB 136, HB 137, HB 139, HB 143.**

Elections and Constitutional Amendments: **HB 14, HB 23.**

State Government: **HB 22, HB 80, HB 114, HB 115, HB 175, HB 177, HB 181, HB 183.**

Motions, Petitions and Communications

Representative Isler moved that a roll call be taken to show additional co-sponsors of **HR 12.** Agreed.

The following members voted to co-sponsor **HR 12:** Representatives Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates.

Representative Isler moved the adoption of the following **HR 12:**

HR 12, A RESOLUTION to adjourn the House of Representatives on Friday, January 11, 1974, in memory of Carl J. Mershon.

WHEREAS, Carl J. Mershon of Ludlow, Kentucky departed this life on October 28, 1973; and

WHEREAS, Carl J. Mershon, during all his adult life, was a respected and devoted leader in church, civic, and political matters; and

WHEREAS, Carl J. Mershon served in the House of Representatives for three terms and also was Kenton County police chief from 1946 to 1966; and

WHEREAS, the Commonwealth of Kentucky and her General Assembly have lost one of their truest of friends and companions in Carl J. Mershon; and

WHEREAS, each member in the General Assembly having the pleasure of knowing this "Gentleman from Kenton 66" was unfailingly impressed by his warm-heartedness, gentility and true devotion to the public service of his beloved Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That when the House of Representatives does adjourn on Friday, January 11, 1974, it does so in fond and loving memory of Carl J. Mershon, and extends its deepest sympathy to his family.

HR 12 was adopted by voice vote.

Representative Little moved the adoption of the following Legislative Citation No. 5:

The House of Representatives of the Commonwealth of Kentucky hereby commends the members of the Elkhorn City High School football team and Coach Delano Thomas for their accomplishment in holding the title of State Runner-up, Class A, Football Championship of 1973. (Sponsored by Representatives Little and Stone)

Agreed.

Representative Stone moved the adoption of the following Legislative Citation No. 6:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Coach James S. DeVries and the members of the Meade County High School Greenwave football team for holding the title of State Runner-up, Class AA, Football Championship of 1973. (Sponsored by Representative Stone)

Agreed.

Representative Givhan requested that his name be added as a co-sponsor of **HB 182**.

Representative Swinford filed Floor Amendment No. 3 and No. 4 to **HB 184**.

Representative Imes requested that his name be added as a co-sponsor of **HB 146**, **HB 187** and **HR 2**.

Representative Gay moved that the House meet at 8:00 P.M., Monday, January 14, 1974.

Representative Swinford moved that the rules be suspended for the purpose of entertainment of a motion on adjournment. Agreed.

Adjournment

Representative Swinford moved that the House adjourn until 4:00 P.M., Monday, January 14, 1974.

On the roll call the vote was yeas 86-Adams, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Dietz, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, Glenn White, James H. White, Jr., Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

JANUARY 14, 1974

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representative Allen.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 11, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 210, by Representative Kafoglis: AN ACT relating to elections.

HB 211, by Representative Hellard: AN ACT relating to strip mining.

HB 212, by Representatives Dunn, Priddy and Romines: AN ACT relating to the urban highway fund.

HB 213, by Representative Lewis: AN ACT relating to quarterly courts.

HB 214, by Representatives Hopkins and Schmidt: AN ACT relating to motor vehicle insurance.

HB 215, by Representatives Hopkins, Holbrook, Holloway, Guenthner, Blythe, Schmidt and DeMarcus: AN ACT relating to traffic.

HJR 13, by Representative Swinford: A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

HB 216, by Representative Swinford: AN ACT relating to Kentucky retirement systems.

HB 217, by Representatives Hellard, Karem, Kenton, Burch, Benson, Kidd, Blume, Romines, Hughes, Quickert, Bennett, Pearman, Chandler, Yates, Maynard, Dunn, Mason, Troop, Nett, Priddy, Holloway, Guenthner and Blythe: AN ACT relating to the State Theatre.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 207**.

Highways and Traffic Safety: **HCR 8, HB 208**.

Judiciary: **HB 206**.

Public Utilities and Transportation: **HR 9**.

State Government: **HCR 1, HB 153, HB 209**.

Senate Message

Announcing passage of **SB 15**.

Report of Committees

The Committee on Rules reported **HB 59** with Committee Amendment attached thereto, **HB 4** with Committee Amendment attached thereto, **HB 12, HB 28, HB 29** and **HB 31** have been posted for passage in Orders of the Day, January 15, 1974.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 70, HB 71, HB 87, HB 11, HB 36.**

Counties and Special Districts: **HB 204, HB 205.**

Business Organizations and Professions: **HB 81, HB 112, HB 123, HB 124, HB 164, HB 174.**

Education: **HB 40, HB 41, HB 47, HB 55, HB 86, HB 154.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Labor and Industry: **HB 70.**

Motions, Petitions and Communications

The following members requested that their names be added as co-sponsors of the following Bills:

Representative Bruce - **HB 187**

Representative Nett - **HB 190**

Representative Mason - **HB 155**

Representative Whitfield - **HB 187**

The Speaker announced that without objection a roll call would be taken to show co-sponsors of **HB 187.**

On the roll call the vote was yeas 55-Adams, Arnold, Beshear, Brewer, E. Brown, Bruce, Chandler, Crupper, Dawahare, DeMarcus, Denham, Dietz, Foster, Freeman, Gay, Guenthner, Harris, Head, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kareem, Loudon, Mason, May, Maynard, McBee, McBrayer, O'Brien, Overstreet, Pearman, Reynolds, Richardson, Roberts, Sale, Schmaedecke, Sharpe, Smith, Stephens, Stewart, Stone, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible. Nays 0.

The Speaker announced that without objection the following Bills have been reassigned:

HB 80 from the Committee on State Government to the Committee on Business Organizations and Professions.

HB 185 from the Committee on Appropriations and Revenue to the Committee on Agriculture and Natural Resources. Agreed.

Orders of the Day

HB 57 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 97-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon,

Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Gay.

HB 57 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 57** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 66 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 99-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 66 was passed and the title agreed to.

HB 171 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 99-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 171 was passed and the title agreed to.

HB 184, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the following Floor Amendment No. 4 to **HB 184**:

Amend committee amendment No. 1 of House Bill 184 to read as follows:

On page 2 by inserting after line 6, the following:

(d) In the event that the Congress of the United States should raise or lower the speed limits as set out in Section 1 (a), (b) and (c), the secretary of the Department of Transportation shall be empowered to alter the speed limits on the public highways of the Commonwealth of Kentucky to comply therewith.

And on page 2, line 20, by changing the period to a comma and adding the following:

or on March 1, 1974, whichever date should last occur.

Agreed.

Representative Romines moved the adoption of Committee Amendment No. 1 as amended by Floor Amendment No. 4 to **HB 184**. Agreed.

Representative Swinford moved the adoption of the following Floor Amendment No. 2 to **HB 184**:

Amend printed copy of House Bill 184, page 1, line 8, by adding at the end of Section 1 (1) (a) the following:

“, unless the speed limits for all types of motor vehicles was less than 55 miles per hour on November 1, 1973.”

Agreed.

Representative Swinford moved the adoption of the following Floor Amendment No. 3 to **HB 184**:

Amend printed copy of House Bill 184, page 2, line 10, by changing “1975” to read “1976”.

Agreed.

Representative Swinford moved that **HB 184** as amended be placed upon its passage.

Representative Nett moved that **HB 184** as amended be laid on the Clerk's desk.

Representative Stephens moved that the Previous Question be adopted on **HB 184** as amended.

On the roll call the vote was yeas 66-Adams, Arnold, Bennett, Benson, Blandford, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Dunn, Foster, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hinkle, Hislope, Holloway, Hurst, Isler, Kenton, Kidd, Kleier, Lindsay, Little, Louden, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 19-Allen, Blythe, DeMarcus, Graves, Holbrook, Hopkins, Hughes, Imes, Kafoglis, Kareem, King, Lewis, Nett, Quickert, Rattliff, Richardson, Schmidt, Siemens, Smith.

The Previous Question on **HB 184** as amended was adopted.

On the roll call the vote was yeas 9-Gay, Graves, Hancock, Kafoglis, Kenton, Kleier, Nett, Robinson, Schmidt. Nays 85-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Guenther, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kareem, Kidd, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates.

The motion that **HB 184** as amended be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 96-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 3-Graves, Hughes, Kafoglis.

HB 184 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 184** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Beshear filed a Floor Amendment to House Rule 41.

Representative Kafoglis filed a Floor Amendment to House Rule 44.

The Clerk announced a meeting of the General Civil Law Subcommittee of the Committee on Judiciary for 11:00 A.M., Room 305, January 16, 1974.

The Clerk announced the following regular schedule of Committee meetings:

Tuesday

9:00 A.M.	Appropriations and Revenue	Room 305
	Cities	Room 307
10:00 A.M.	Education	Room 307
11:00 A.M.	Business Organizations and Professions	Room 305A
12:00 Noon	Labor and Industry	Room 307
	Elections and Constitutional Amendments	Room 305A

Wednesday

9:00 A.M.	Judiciary	Room 305
11:00 A.M.	Public Utilities and Transportation	Room 305A
12:00 Noon	Health and Welfare	Room 307

Thursday

9:00 A.M.	State Government	Room 307
	Agriculture and Natural Resources	Room 305A
10:00 A.M.	Highways and Traffic Safety	Room 305
11:00 A.M.	Banking and Insurance	Room 305A
12:00 Noon	Counties and Special Districts	Room 307

Representative Swinford moved that the rules be suspended for the purpose of entertaining a motion on adjournment plans. Agreed.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Tuesday, January 15, 1974.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

TUESDAY, JANUARY 15, 1974

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representative McGill.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 14, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 218, by Representative Isler: AN ACT relating to the reporting of motor vehicle accidents.

HB 219, by Representatives Hellard, Mason and Loudon: AN ACT relating to the establishment of a Youth Development and Conservation Corps.

HB 220, by Representative Kidd: AN ACT relating to state holidays.

HB 221, by Representative Mason: AN ACT relating to exceptional children.

HB 222, by Representatives Clarke, Beshear, Nett, McBride, O'Brien, Wells, Holloway, DeMarcus, Hellard, Freeman, Wible, Troop, Whitfield, Paxton and Robinson: AN ACT relating to bills and pre-filed bills.

HB 223, by Representative Blythe: AN ACT relating to the ownership of property.

HB 224, by Representative Gay: AN ACT relating to payment of jurors.

HB 225, by Representative Gay: AN ACT relating to state police.

HB 226, by Representative Blythe: AN ACT relating to securities.

HB 227, by Representative Schmaedecke: AN ACT relating to the sale of real estate possessed by a person under disability.

HB 228, by Representatives Bruce and Kidd: AN ACT relating to salaries of elected county officials.

HB 229, by Representatives Hopkins, Lewis, Clapp, Holbrook, Imes, Kenton, Guenther, Overstreet and Davis: AN ACT relating to quarterly courts.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 211**.

Appropriations and Revenue: **HJR 13.**

Elections and Constitutional Amendments: **HB 210.**

Highways and Traffic Safety: **HB 212, HB 214, HB 215.**

Judiciary: **HB 213.**

State Government: **HB 216, HB 217.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 110, HB 159.**

Agriculture and Natural Resources: **HB 15, HB 16, HB 17, HB 18, HB 73, HB 180.**

State Government: **HCR 1, HB 145.**

Senate Message

Announcing passage of **SB 25, SB 11, SB 10, SB 52, SR 1.**

Report of Committees

The Committee on Rules reported **HB 5** and **HB 64** with Committee Amendment attached thereto have been posted for passage in Orders of the Day, January 16, 1974.

The Committee on Appropriations and Revenue reported **HB 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 110, AN ACT relating to taxes on legal actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.011 is amended to read as follows:

(1) A tax of fifteen dollars (\$15.00) hereby is levied on each original action in the circuit court, commencing with or without original process; on each original *civil* action in other courts when the amount in controversy, exclusive of interest and costs, exceeds fifty (\$50.00) dollars; on each appeal to the circuit or quarterly court; on each traverse of forcible entry or detainer; and on each proceeding to revive a judgment. A tax of thirty-five dollars (\$35.00) hereby is levied on each appeal to the Court of Appeals. *This tax shall not be applicable to criminal proceedings.*

(2) The revenue derived from the taxes imposed by this section shall be paid into the state treasury and credited to the general expenditure fund, for general state purposes.

The Committee on Business Organizations and Professions reported **HB 124** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 124, AN ACT relating to motion pictures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 231 is created to read as follows:

(1) No movie theater, drive-in theater, or other facility requiring a fee for admission shall show a "X" or "R" rated movie in their previews if a "G" or "GP" movie is playing.

(2) Any person who violates the provisions of this Act shall be fined not less than \$100 per violation. Each showing shall be considered as a separate violation.

The Committee on Education reported **HB 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 47, AN ACT relating to the County Employees' Retirement System.

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizes the need for financial security upon retirement for non-certified employees of boards of education and the reasonable cost of participation in CERS; and

WHEREAS, only thirty-three of the one hundred and eighty-nine school boards in this Commonwealth presently participate in the county employees' retirement system; and

WHEREAS, all non-certified school board employees should be given the opportunity to elect to participate in the retirement system so that they will be financially secure upon their retirement,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.880, unless the context otherwise requires:

(1) "System" means the county-employees' retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, *including school boards*, participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5)[(4)] "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(6)[(5)] "Employee" means every regular full-time appointed or elective officer or employee of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.880;

(7)[(6)] "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employee to office or employment in such county.

(8)[(7)] "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9)[(8)] "Service" means the total of current service and prior service as defined herein;

(10)[(9)] "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid;

(11)[(10)] "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12)[(11)] "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account,

together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13)[(12)] "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14)[(13)] "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15)[(14)] "Retirement allowance" means the retirement payments to which a member is entitled;

(16)[(15)] "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board;

(17)[(16)] "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.880;

(18)[(17)] "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(19)[(18)] "Agency reporting official" means the person designated by the participating agency to file reports with the county employees' retirement system; and

(20)[(19)] "Regular full-time positions" as used in subsection (5) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of *eighty (80)* [one hundred (100)] hours of work per month in the performance of duty.

Section 2. KRS 78.530 is amended to read as follows:

(1) Each county[,]and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) *Every school board not participating on the effective date of this Act shall enact a resolution of participation no later than July 1, 1976.*

(4)[(3)] In counties not participating in the system in accordance with subsection (1) of this section, the county fiscal court, upon request of either the clerk of the county court or the sheriff of the county, shall enter an appropriate order authorizing the participation in the system, said order to be duly recorded in the records of the fiscal court. Provided, however, anything in KRS 78.510 to 78.880 to the contrary notwithstanding, the fiscal court shall not be liable for "normal contribution" or "past service liability contribution" with reference to the county court clerk and his employees and deputies and the sheriff and his employees and deputies, and further that the "normal contribution" and "past service liability contribution" shall be considered office expenditures and shall be paid by the county court clerk and by the sheriff respectively.

(5)[(4)] The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals established in accordance with KRS 216.010 and 216.080 and any other semi-independent agency. Each such excluded agency may participate in the system as a separate agency.

(6)[(5)] An agency whose participation in the county employees' retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the county employees' retirement system.

The Committee on Labor and Industry reported **HB 11, HB 36, HB 71, and HB 87** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to mediation and conciliation of labor disputes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 336 is created to read as follows:

(1) It shall be the duty of the Commissioner, in order to prevent or minimize interruptions growing out of labor disputes, to assist parties to labor disputes to settle such disputes through conciliation and mediation.

(2) The Commissioner may proffer his services in any labor dispute either upon his own motion or upon the request of one or more of the parties to the dispute. Whenever the Commissioner proffers his services in any dispute, it shall be the duty of the Commissioner to put himself in communication with the parties and to use his best efforts, by mediation and conciliation, to bring them to agreement.

(3) If the Commissioner is not able to bring the parties to agreement by mediation within a reasonable time, he shall seek to induce the parties voluntarily to seek other means of settling the dispute without resort to strike, lockout, or other coercion. The failure or refusal of either party to agree to any procedure suggested by the Commissioner shall not be deemed a violation of any duty or obligation imposed by this Act.

Section 2. A new section of KRS Chapter 336 is created to read as follows:

In order to prevent or minimize interruptions growing out of labor disputes, employees and employers and their representatives, shall:

(1) Exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) Whenever a dispute arises over the terms or application of a collective-bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously;

(3) In case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the Commissioner under this Act for the purpose of aiding in a settlement of the dispute.

Section 3. KRS 336.150 is repealed.

HB 36, AN ACT relating to the duties of the Commissioner of Labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 336.050 is amended to read as follows:

The Commissioner in person or by representative shall:

(1) Investigate and ascertain the wages of all *employees* [women and minors] employed in this state.

(2) Enter the place of business or employment of any employer of *employees* [women and minors] to examine and inspect all books, registers, payrolls and other records that have a bearing upon the question of wages of *employees* [women and minors] and to ascertain whether the orders of the commissioner are complied with; and

(3) Require from the employer a full and correct statement in writing when the commissioner or his representative considers it necessary, of the wages paid to all *employees* [women and minors] in his employment.

(4) Upon complaint, prosecute any violation of any of the provisions of any law which it is his duty to administer or enforce.

HB 71, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.020 is amended to read as follows:

Every employer [Every corporation for pecuniary profit doing business] in this state shall, as often as semimonthly, pay to each of its employes all wages or salary earned by him to a day not more than eighteen (18) days prior to the date of that payment. Any employe who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six (6) days' demand. Any employe who leaves or is discharged from his employment shall be paid in full following his dismissal or voluntary leaving at any time upon three (3) days' demand. No *employer* [corporation] subject to this section shall, by any means, secure exemption from it. Every such employe shall have a right of action against any such *employer* [corporation] for the full amount of his wages due on each regular pay day.

Section 2. KRS 337.990 is amended to read as follows:

(1) Any *employer* [firm, individual, partnership or corporation] that violates KRS 337.020 shall be fined not less than \$25.00 nor more than \$100 for each offense. Each failure to pay an employe the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any person who violates KRS 337.030 shall be fined not more than \$500 for each violation.

(3) Any employer who violates KRS 337.050 shall be fined not less than \$25.00 nor more than \$200 or imprisoned for not more than thirty (30) days, or both.

(4) Any person who violates KRS 337.060 shall be fined not more than \$300 or imprisoned for not more than sixty (60) days, or both.

(5) Any employer or agent of an employer who fails to keep and present records as provided in KRS 337.320 or who falsifies such records, or who fails to keep posted a copy of the minimum fair-wage orders as required in KRS 337.330, or who in any way hinders the commissioner or his authorized representative in the enforcement of KRS 337.210 to 337.360 shall be fined not less than \$25.00 nor more than \$100. Each day of violation of any of these provisions shall constitute a separate offense.

(6) Any person who violates subsection (1) of KRS 337.350 shall be fined not less than \$50.00 nor more than \$200.

(7) Any person who violates subsection (2) of KRS 337.350 shall be fined not less than \$50.00 nor more than \$200 or be imprisoned not less than ten (10) days nor more than ninety (90) days, or both. Each day subsection (2) of KRS 337.350 is violated shall constitute a separate offense.

(8) Any person who violates any of the provisions of KRS 337.370 to 337.400 shall be fined not less than \$25.00 nor more than \$50.00 for the first offense, and for each subsequent offense he shall be fined not less than \$50.00 nor more than \$200 or imprisoned not less than ten (10) days nor more than ninety (90) days, or both.

(9) Any person who violates KRS 337.530 shall be fined not more than \$100.

(10) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be fined not more than \$100 for each offense, and said contractor or subcontractor shall make full restitution to all employes to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employe of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(11) Any public authority, public official, or member of a public authority who wilfully fails to comply or to require compliance with KRS 337.505 or 337.550 shall be fined not more than \$100 for each offense. Each day of violation shall constitute a separate offense. Where a public authority, public official or member of a public authority wilfully or negligently fails to comply with KRS 337.505 to 337.550 and such failure results in damages, injury or loss to any person, such public authority, public official, or member of a public authority may be held liable therefor in a civil action.

(12) Any person who fails to comply with KRS 337.070 shall be fined not less than \$10.00, nor more than \$100 for each offense and each day that such failure continues shall be deemed a separate offense.

HB 87, AN ACT relating to Workmen's Compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent of such total payments, to cover

the administrative cost of the employer. However in no event shall "adjusted cost" be less than fifty percent of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer carrying his own risk and for this purpose each such employer shall annually furnish payroll data to the *Department of Revenue* [Workmen's Compensation Board]. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a Special Fund tax at the rate of three fourths of one percent of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the *Department of Revenue* [board] shall assess against the "adjusted cost" of every employer carrying his own risk a Special Fund Tax computed by taking three-fourths of one percent of the "Adjusted Cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths of one percent of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the State Treasury and shall be credited to the Special Fund for the board, which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose under the supervision of the Commissioner of Labor.

(4) Any sum remaining in the Special Fund at the end of any fiscal year shall be set up by the Department of Finance to the credit of such fund for the next ensuing fiscal year.

(5) If the Commissioner of Labor finds that the Special Fund tax levied pursuant to this section is insufficient to pay such claims awarded under the Special Fund provisions, *he shall advise the Commissioner of Revenue in writing of such fact.* [then he may] *The Commissioner of Revenue may then levy additional assessments against all insurance companies writing workmen's compensation insurance in Kentucky, including every employer carrying his own risk.* The amount of each insurance company's assessment shall be in the proportion that each company's annual workmen's compensation premium writings in Kentucky bears to the total of all annual workmen's compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the Department of Insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of all such own risk carriers. "Adjusted cost" reports filed with the *Department of Revenue* [board] in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) The fund heretofore designated as the Subsequent Claim Fund is abolished and there is substituted therefor the Special Fund as herein set out and all monies and properties owned by the Subsequent Claim Fund are transferred to the Special Fund.

Section 2. KRS 342.475 is amended to read as follows:

Every employer carrying his own risk under KRS 342.340 shall, under oath, report to the *Department of Revenue* [board] his "adjusted cost" of operating under the provisions of this chapter during the period covered by such report. Such report shall be made in form prescribed by the *Department of Revenue* [board] and at the time provided for premium reports by the insurance carriers. The *Department of Revenue* [board] shall assess against such "adjusted costs" so reported a maintenance fund tax of two per cent.

The Committee Amendment to **HB 87** is as follows:

Amend printed copy of House Bill 87 on page 3, line 15, after the word "of" add: "such own risk carrier bears to the total 'adjusted cost' of"

Motions, Petitions and Communications

Representative Swinford moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Matthew Mann as Page for the Day in the House of Representatives for Representatives Dietz, Donnermeyer, King, Isler, Mann, McBee, Crupper, Schmaedecke, and Schmidt.

Agreed.

Orders of the Day

Representative Swinford moved that **HB 4**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Wells moved the adoption of Committee Amendment No. 1 to **HB 4**. Agreed.

Representative Wells moved that **HB 4** as amended be placed upon its passage.

On the roll call the vote was yeas 97-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 4 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 4** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 12** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Donnermeyer moved that **HB 12** be placed upon its passage.

Representative Clarke moved that **HB 12** be recommitted to the Committee on Judiciary for further study. Agreed.

Representative Swinford moved that **HB 28** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Donnermeyer moved that **HB 28** be placed upon its passage.

On the roll call the vote was yeas 49-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Chandler, Clarke, Crupper, Dietz, Donnermeyer, Dunn, Graves, Guenther, Hancock, Hinkle, Hopkins, Hurst, Isler, Karem, Kenton, Kidd, Kleier, Loudon, Mann, Mason, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Roberts, Romines, Schmaedecke, Schmidt, Stephens, Stewart, Thomas, Turner, Van Horn, Watkins, Yates. Nays 42-Allen, Brewer, Bruce, Clapp, Davis, Dawahare, DeMarcus, Denham, Foster, Gay, Givhan, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Imes, Kafoglis, Lewis, Lindsay, Little, May, McBrayer, Overstreet, Quickert, Rattliff, Reynolds, Richardson, Robinson, Sale, Sharpe, Smith, Stone, Swinford, Troop, Vincent, J. White, Whitfield, Wible.

HB 28 was passed and the title agreed.

Representative Donnermeyer moved that the vote by which **HB 28** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 29** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Donnermeyer moved that **HB 29** be placed upon its passage.

On the roll call the vote was yeas 94-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton,

Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 0.

HB 29 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 29** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 31** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Donnermeyer moved that **HB 31** be placed upon its passage.

On the roll call the vote was yeas 46-Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Chandler, Clarke, Crupper, Dietz, Donnermeyer, Dunn, Graves, Hancock, Holbrook, Hopkins, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Loudon, Mann, Mason, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Priddy, Quickert, Romines, Sale, Schmaedecke, Schmidt, Stephens, Thomas, Turner, Watkins, Whitfield, Yates. Nays 44-Adams, Allen, Arnold, Brewer, Bruce, Burch, Clapp, Davis, Dawahare, DeMarcus, Denham, Foster, Freeman, Gay, Givhan, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Hughes, Imes, Lewis, Lindsay, Little, May, Maynard, McBrayer, Paxton, Rattliff, Reynolds, Richardson, Roberts, Robinson, Smith, Stewart, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Wible.

HB 31 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 31** was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 39-Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Chandler, Crupper, Dietz, Donnermeyer, Dunn, Graves, Hancock, Hurst, Isler, Kafoglis, Karem, King, Kleier, Loudon, Mann, Mason, McBee, McBride, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Romines, Sale, Schmaedecke, Schmidt, Stewart, Turner, Whitfield, Yates. Nays 52-Adams, Allen, Arnold, Brewer, Bruce, Burch, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Foster, Freeman, Gay, Givhan, Guenther, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Hopkins, Hughes, Kenton, Lindsay, Little, May, Maynard, McBrayer, Nett, Overstreet, Rattliff, Reynolds, Richardson, Roberts, Robinson, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible.

The motion that the vote by which **HB 31** was passed be reconsidered and said motion be postponed indefinitely was rejected.

Representative Swinford moved that **HB 59**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Watkins moved the adoption of Committee Amendment No. 1 to **HB 59**. Agreed.

Representative Watkins moved that **HB 59** as amended be placed upon its passage.

On the roll call the vote was yeas 96-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 59 as amended was passed and the title agreed to.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 230, by Representative Kenton: AN ACT relating to retirement systems.

HR 15, by Representative Kidd: A RESOLUTION adjourning the House of Representatives in memory of Dr. Martin Luther King, Jr.

HR 14, by Representative Swinford: A CONCURRENT RESOLUTION inviting Governor Wendell H. Ford to address a Joint Session of the General Assembly.

HB 231, by Representatives Kleier, Kafoglis and Wible: AN ACT relating to Lobbyists.

HR 16, by Representatives Nett, Hinkle, King, Karem, Kenton and Kidd: A RESOLUTION on retirement and social security for teachers.

HB 232, by Representatives Lewis, Paxton, Lindsay, Benson, Beshear, Stone, Overstreet, and Hopkins: AN ACT relating to the Kentucky Penal Code.

HB 233, by Representative Blythe: AN ACT relating to banking.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 7, HB 45, HB 53, HB 74, HB 77, HB 90, HB 93, HB 94, HB 102, HB 103, HB 109, HB 111, HB 119, HB 120, HB 122, HB 148, HB 149, HB 151.**

Highways and Traffic Safety: **HB 75, HB 104, HB 133, HB 134, HB 135, HB 179, HB 208, HCR 8.**

Cities: **HB 2, HB 39, HB 79, HB 98, HB 107, HB 108, HB 116, HB 117, HB 125, HB 126, HB 132, HB 147.**

State Government: **HB 216, HB 217.**

Representative Swinford moved that the rules be suspended for action on **HR 14** and **HR 15**. Agreed.

Representative Kidd moved the adoption of the following **HR 15**:

HR 15, A RESOLUTION adjourning the House of Representatives in memory of Dr. Martin Luther King, Jr.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, January 15, 1974, it does so in honor and memory of Dr. Martin Luther King, Jr.

On the roll call the vote was yeas 89-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds,

Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HR 15 was adopted.

Representative Swinford moved the adoption of the following **HCR 14**:

HR 14, A CONCURRENT RESOLUTION inviting Governor Wendell H. Ford to address a Joint Session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Honorable Wendell H. Ford, Governor of the Commonwealth of Kentucky, be and he hereby is invited to address a Joint Session of the General Assembly, on the aspects of the energy problem in Kentucky, at 3:30 p.m., Wednesday, January 16, 1974;

Section 2. That a joint committee of the Senate and the House of Representatives be appointed to wait upon the Governor and escort him to the House Chamber.

On the roll call the vote was yeas 91-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HCR 14 was adopted.

Announcements

Representative Lindsay filed Floor Amendment No. 2 to **HB 64**.

Representative Blandford filed Floor Amendment No. 3 to **HB 64**.

Representative Swinford moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

Counties and Special Districts: **HB 203**:

Representative Swinford moved that the rules be suspended for the purpose of entertaining a motion on adjournment plans. Agreed.

Representative Swinford moved that when the House adjourns it do so until 3:00 P.M., Wednesday, January 16, 1974.

Representative Gay requested that his name be added as a co-sponsor of **HB 47**.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Wednesday, January 16, 1974.

On the roll call the vote was yeas 81-Adams, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Graves, Guenther, Hancock, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 16, 1974**EIGHTH LEGISLATIVE DAY**

The House was called to order by Speaker Blume.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representatives Allen, Hurst and McGill.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 15, 1974, be dispensed with and the same approved. Agreed.

The Speaker appointed the following committee to wait upon the Governor: Representatives Clapp, Watkins, Loudon and Sharpe.

Introduction of Bills and Resolutions

HB 234, by Representatives Hopkins, Kenton and Van Horn: AN ACT relating to school districts.

HB 235, by Representatives Benson, O'Brien, Karem, Stephens, Hellard, Yates and Siemens: AN ACT relating to consumer education.

HB 236, by Representative G. White: AN ACT relating to abortions.

HB 237, by Representative Freeman: AN ACT relating to higher education academic programs.

HB 238, by Representative Freeman: AN ACT relating to motor vehicle licensing.

HB 239, by Representatives Denham, Arnold and May: AN ACT relating to state legislative districts.

HB 240, by Representative Hinkle: AN ACT relating to instruction in child's home or in hospital.

HB 241, by Representative Gay: AN ACT relating to the State Police.

HB 242, by Representative Gay: AN ACT relating to jailers' fees.

HB 243, by Representative Mason: AN ACT relating to emergency and public safety vehicles.

HB 244, by Representative Schmidt: AN ACT relating to smoking on school premises.

HB 245, by Representatives Paxton and Harris: AN ACT relating to contributory negligence.

HB 246, by Representative Imes: AN ACT relating to crimes and punishment.

HJR 17, by Representatives Schmaedecke, Brewer, Clarke, Crupper, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Guenther, Hardin, Hislope, Holloway, Hopkins, Hughes, Isler, Kenton, Kidd, King, Kleier, Mann, Maynard, McBee, Nett, Pearman, Quickert, Schmidt, Sharpe, Watkins and Yates: A JOINT RESOLUTION directing the United States Congress to recognize the rights of the unborn.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 219**.

Appropriations and Revenue: **HB 222, HB 224**.

Banking and Insurance: **HB 233**.

Cities: **HB 223, HB 230**.

Counties and Special Districts: **HB 228**.

Education: **HB 221, HB 16**.

Highways and Traffic Safety: **HB 218**.

Judiciary: **HB 226, HB 227, HB 229, HB 232**.

State Government: **HB 220, HB 225, HB 231**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 21**.

Report of Committees

The Committee on Judiciary reported **HB 148, HB 53, HB 77, HB 90** and **HB 119** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 148, AN ACT relating to trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1: KRS 386.350 is amended to read as follows:

As used in KRS 386.355 and 386.360, unless the context requires otherwise:

(1) "Internal Revenue Code" means the Internal Revenue Code of 1954, in effect on January 1, 1970, including all appropriate provisions of the Tax Reform Act of 1969 at the dates specified in that law, exclusive of any amendments made subsequent to December 31, 1969.

(2) "Trust" includes a trust or any other entity (other than a corporation) which has, in whole or in part, a charitable purpose.

[(2) "Trust" includes a trust or any other entity (other than a corporation) which is a "private foundation" as defined in Section 509 of the Internal Revenue Code.]

(3) "Trustee" includes any member of the governing body of any trust, as defined in this section.

[(3) "Trustee" includes any member of the governing body of any entity (other than a corporation) which is a "private foundation" as defined in Section 509 of the Internal Revenue Code.]

HB 53, AN ACT deleting provisions which are radically discriminatory.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26.610 is amended to read as follows:

(1) The police judge of every city of the first class shall appoint two (2) court matrons for a term of two (2) years, and until the qualifications of their successors, and may remove them for good cause. The judge shall cause his reasons for removal to be entered in the minutes of his court. The judge may fill all vacancies occurring in the office of court matrons. [One (1) matron shall be white and the other shall be of the colored race.]

(2) The court matrons shall be women of good moral character, with experience and training in social work, and otherwise fully qualified to perform the duties of their office. They shall be twenty-one (21) years of age or older.

(3) The court matrons shall investigate and report to the police judge upon the past histories, conditions of living, character, morals and habits of all women and girls awaiting trial in the police court, and shall exercise supervision of such women and girls while they are under suspended sentence until final disposition of the charges against them.

(4) The court matrons shall be paid out of the city treasury a salary, and shall be allowed, subject to the approval of the police judge, all necessary expenses incidental to investigation of cases.

Section 2. KRS 160.020 is amended to read as follows:

All school districts embracing cities of the first five (5) classes together with the territory within their limits, including any territory that has been added for school purposes outside of the city limits, and all independent graded common school districts having a school census enumeration of two hundred (200) or more [white] children, constitute independent school districts, except such of them as have merged with a county school district since June 14, 1934. No independent district other than a city of the first five (5) classes shall continue to operate when its school census enumeration of [white] children falls below two hundred (200) pupils unless it appears to the state board of education that the district can maintain a more efficient program of school service by operating as an independent district.

Section 3. KRS 160.030 is amended to read as follows:

The state board of education may permit any independent district, other than a city of the first five (5) classes, with a census enumeration of [white] children below two hundred (200) to operate as a temporary independent school district for one (1) year periods beginning with July 1, 1938, if it appears to the state board of education that the district can maintain a more efficient program of school service by operating as a temporary independent district. The decision of the state board of education shall be final. At the end of each one (1) year period the state board of education may permit a temporary independent district to operate for an additional one (1) year period on the condition that inspection made by the state board of education shows that it is operating a school in accordance with the school law and the standards, rules and regulations set up by the state board of education. The state board of education may by order make any temporary independent school district a part of the county district whenever it is not complying with the school law and the standards, rules and regulations of the state board of education, and after it has been given a reasonable time, fixed by the state board of education, within which to so comply. Each application of an independent district to operate as a temporary independent district for a one (1) year period shall be filed with the state board of education not later than May 1.

Section 4. KRS 160.580 is amended to read as follows:

All sums arising from any gift, grant or devise by any person wherein the intent is expressed that the same is to be used to aid in the education of [white or colored] children in any school district in this state shall

be held and used for the purposes specified in the gift, grant or devise. The district board of education shall receive the gift, grant or devise for the benefit of the [white or colored] schools of its district and shall hold and use it as requested by the donor or devisor, provided that the purpose for which it is used shall be in harmony with the aims and general program of public education in this state.

Section 5. KRS 391.100 is amended to read as follows:

(1) The issue of a marriage found to be incestuous by the conviction of the party or by the judgment of a court during the lifetime of the parties [, or of a marriage between a white person and a negro or mulatto] is not legitimate.

(2) The issue of all other illegal or void marriages is legitimate.

Section 6. KRS 402.020 is amended to read as follows:

Marriage is prohibited and void:

(1) With an idiot or lunatic;

[(2) Between a white person and a Negro or mulatto;]

(2) [(3)] Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3) [(4)] When not solemnized or contracted in the presence of an authorized person or society;

(4) [(5)] When at the time of marriage, the male is under eighteen (18) or the female under sixteen (16) years of age, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a county judge for permission to marry, which application may be granted, in the discretion of the county judge. The court shall be allowed a fee of five dollars (\$5.00) for hearing each such application.

HB 77, AN ACT relating to the licensing of minors to operate motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen [(18)] for an operator's license, motorcycle operator's license or any instruction permit shall not be granted unless the application is signed by a *parent or guardian* [the father] of the applicant. [, if the father is living and has custody of the applicant, otherwise by the mother or guardian having the custody of the minor.] If the minor has no father, mother or guardian, an operator's license or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. Such a signature need not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen [(18)] unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) Any person who has signed the application of a minor for a license may file with the department a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The department upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

HB 90, AN ACT relating to comparative negligence in all civil cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 411 is created to read as follows:

In all actions hereafter brought for personal injuries, or where such injuries have resulted in death, or for injury to property, the fact that the person injured, or the owner of the property, or person having control over the property may have been guilty of contributory negligence shall not bar a recovery, but damages shall be diminished by the jury in proportion to the amount of negligence attributable to the person injured, or the owner of the property, or the person having control over the property.

Section 2. A new section of KRS Chapter 411 is created to read as follows:

The provisions of this Act shall apply only to causes of action accruing after the effective date of this Act.

HB 119, AN ACT relating to the procedure for having name changed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 401.010 is amended to read as follows:

(1) Any person at least eighteen (18) years of age[, who is not a married woman,] may have his name changed by the county court of the county in which he resides. If he resides on a United States army post, military reservation or fort his name may be changed by the county court of any county adjacent thereto.

(2) In every proceeding under this section and under KRS 401.020, the court shall be allowed a fee of five dollars (\$5.00).

The Committee on Health and Welfare reported **HB 48**, **HB 52** with Committee Amendment attached thereto, **HB 113** with Committee Amendment attached thereto, and **HB 137** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 48, AN ACT relating to ambulance service districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 108 is created to read as follows:

As used in this act unless the context requires otherwise:

(1) "District" means emergency ambulance service district;

(2) "Board" means the board of directors of the emergency ambulance service district.

(3) "County" means the incorporated and unincorporated areas thereof.

Section 2. A new section of KRS Chapter 108 is created to read as follows:

For the purpose of enabling counties to provide emergency ambulance service to assure public safety and welfare the general assembly does hereby allow all of the territory coterminous with the boundaries of a county, or coterminous with the boundaries of two or more counties contiguous to each other, to be organized into an emergency ambulance service district for the purpose of financing and administering emergency ambulance service for the residents of the district.

Section 3. A new section of KRS Chapter 108 is created to read as follows:

Districts shall be organized in the following manner:

(1) Upon the filing of a certified petition of one hundred or more qualified voters in each county to be included within the territorial limits of the proposed district or upon the determination of each fiscal court in the proposed district that the establishment of a district is in the best interests of the inhabitants of the county, the fiscal court of each county in the proposed district shall adopt a resolution submitting to the qualified voters of the county the question as to whether an emergency ambulance service district should be established for the area and a special ad valorem tax imposed for the maintenance and operation of the district, not to exceed ten cents on each one hundred dollars of the assessed valuation of all property in the district. A certified copy of the resolution of the fiscal court shall be filed with the county court clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed on the ballot.

(2) The question shall be in substantially the following form: "Are you in favor of establishing an emergency ambulance service district for (insert names of counties) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars (\$100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) emergency ambulance service district?"

(3) If a majority of those voting in each county on the question favor the establishment of an emergency ambulance service district it shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the constitution of Kentucky. The cost of the election shall be paid by the fiscal court.

(4) All special ad valorem taxes authorized by this act shall be collected in the same manner as are other county ad valorem taxes in each county affected and shall be turned over to the board of directors as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes. The sheriff shall be entitled to a fee of one per cent of the amount of the tax collected by him.

Section 4. A new section of KRS Chapter 108 is created to read as follows:

(1) The affairs of the district shall be controlled and managed by a board of directors appointed by fiscal courts and city legislative bodies in the following manner:

(a) If the district consists of one county, three members shall be appointed to the board by the fiscal court of the county;

(b) If the district consists of two counties, the fiscal court of the county having the greater portion of the population of the district shall appoint two directors and the fiscal court of the other county shall appoint the third director;

(c) If the district consists of more than two counties, the fiscal court of the county having the greatest portion of the population of the district shall appoint two directors and the fiscal court of the remaining counties comprising the district shall each appoint one director;

(d) The legislative body of each city of the first three classes, or if there is no such class of city, the city of the highest class located within each county in the district shall appoint one additional director.

(2) Each board members shall reside within the district and within the county of city of which he was appointed to represent.

(3) The board of directors shall be appointed by the appropriate legislative body within thirty (30) days after the establishment of the district. The terms of office of the directors first appointed shall expire on the first Monday in January of the even numbered year next following their appointment. Thereafter, directors shall be appointed for terms of two years each, expiring on the first Monday in January of the next even numbered year or until their successors are appointed. Any vacancies shall be filled by the appointing authority for the unexpired term.

(4) A majority of the membership of the board shall constitute a quorum.

Section 5. A new section of KRS Chapter 108 is created to read as follows:

(1) Each director, before entering upon his official duties, shall take and subscribe to an oath that he will honestly, faithfully and impartially perform the duties of his office and that he will not be interested in any contract let for the purpose of effectuating any of the provisions of this act. The oath shall be filed with the records of the district.

(2) The members of the board shall not receive compensation for their services but shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties upon sworn written statements accompanied by receipts for any expense in excess of two dollars submitted to and approved by the board.

Section 6. A new section of KRS Chapter 108 is created to read as follows:

(1) The board may employ or retain a licensed attorney to advise them on all matters pertaining to their duties. The attorney shall attend all meetings of the board, except executive sessions when the board does not require his presence.

(2) The board may appropriate out of the funds of the district a salary or commission for the attorney appointed to represent the board.

Section 7. A new section of KRS Chapter 108 is created to read as follows:

The board of directors shall provide ambulance service to inhabitants of the district and shall have the authority to:

(1) Purchase ambulance vehicles and all other necessary equipment and employ trained personnel which meet all federal and state requirements;

(2) Establish a civil service system for employes of the district in accordance with the plan outlined for cities of the first class under KRS 90.110 to 90.230;

(3) Adopt rules and regulations necessary to effectively and efficiently provide emergency ambulance service for the district;

(4) Employ person(s) to administer the daily operations of the emergency ambulance service;

(5) Compensate employes of the district at a rate determined by the board;

(6) Apply for and receive available funds from the state and federal government for the purpose of maintaining or improving the emergency ambulance service of the district;

(7) Acquire by bequest, gift, grant or purchase such real or personal property necessary to provide emergency ambulance service;

(8) In addition to the special ad valorem tax, establish an equitable system of service charges to be collected from persons receiving emergency ambulance service from the district. The rate of the service charge shall be fixed in such amounts as can be reasonably expected to yield revenues not in excess of the cost of operation and maintenance of the system and for an adequate depreciation fund;

(9) Contract with private persons, partnerships, or corporations for providing ambulance service to residents of the district as long as these services utilize vehicles, equipment and personnel which conform to all

requirements of this act.

Section 8. A new section of KRS Chapter 108 is created to read as follows:

The board shall keep a minute book, appropriately bound and marked, in which the minutes of each meeting of the board shall be kept, together with all resolutions, regulations, tax levies, and other pertinent material. A copy of the contents of the minute book shall be kept on file in the office of the clerk of the county which has the greatest population of the district. The public shall have the right to inspect the book and its contents at all times.

Section 9. A new section of KRS Chapter 108 is created to read as follows:

Single county districts may be dissolved in the following manner:

(1) Upon the filing of a certified petition of one hundred or more qualified voters in the district or upon the determination of the fiscal court that the abolishment of the district is in the best interest of the inhabitants of the county, the fiscal court shall adopt a resolution submitting to the qualified voters of the county as to whether the district should be dissolved and the imposition of the special ad valorem tax discontinued. A certified copy of the resolution of the fiscal court shall be filed with the county court clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed on the ballot.

(2) The question on the ballot shall be in substantially the following form: "Are you in favor of dissolving the emergency ambulance service district for (insert name of county) and discontinuing the special ad valorem tax that is imposed for the maintenance and operation of the district?"

(3) If a majority of those voting on the question favor dissolving the district and discontinuing the imposition of the special ad valorem tax the county court clerk shall remove the levy of the special ad valorem tax from the tax bills of the property owners of the district and the district shall be dissolved by order of the fiscal court.

(4) A resolution for the dissolution of the district shall not be considered to have any legal effect if contractual obligations assumed prior to the time of the passage of the resolution by the board have not been met.

Section 10. A new section of KRS Chapter 108 is created to read as follows:

Multi-county districts may be dissolved when each member county follows procedures defined in Section 9 of this act.

Section 11. A new section of KRS Chapter 108 is created to read as follows:

Any member county of the district may withdraw its membership after following the procedures defined in subsections (1), (2), and (3) of Section 9 of this act. The district shall continue to function after such withdrawals, with its boundaries consisting of the remaining county members. No county may withdraw from any district unless it satisfies its part of all contractual obligations assumed by the district prior to the passage of its resolution to the satisfaction of the board.

HB 52, AN ACT relating to the designation of anatomical gifts on motor vehicle and motorcycle operators' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license for operation of a motor vehicle shall apply in person to the circuit court clerk of the county in which he resides and make application upon a form furnished by the department. The application shall contain the full name and signature, date of birth, sex, and present resident address of the applicant and briefly describe him. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(4) Every person seeking a license for operating a motorcycle shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(5) *The department shall provide on the reverse side of each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify before a notary public his willingness to make an anatomical gift under KRS 311.195.*

Section 2. KRS 311.195 is amended to read as follows:

(1) A gift of all or part of the body under subsection (1) of KRS 311.175 may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under subsection (1) of KRS 311.175 may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two (2) witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two (2) witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) *A gift of all or part of the body under KRS 186.412 may also be made by a statement provided for on the reverse side of all Kentucky operators' licenses. The gift becomes effective upon the death of the owner. The statement must be signed by the owner of the motor vehicle or motorcycle license before a notary public and in the presence of two witnesses, who must sign the statement in the presence of the donor and notary public. Delivery of the license during the donor's lifetime is not necessary to make the gift valid. The gift shall become invalidated upon expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed upon renewal of each license.*

(4) [(3)] The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(5) [(4)] Notwithstanding subsection (2) of KRS 311.225, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(6) [(5)] Any gift by a person designated in subsection (2) of KRS 311.175 shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

The Committee Amendment to **HB 52** is as follows:

Amend printed copy of House Bill 52, page 2, line 15, by deleting "before a notary public" and inserting in lieu thereof "in the presence of two witnesses"

And on page 3, line 17, by deleting "before a notary public and"

And on page 3, line 19, by deleting "and notary public".

HB 113, AN ACT relating to handicapped ramps on sidewalks and curbs in areas devoted to or zoned for business, commercial or industrial use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 66 is created to read as follows:

(1) The legislative body of any city, county or urban county government may provide for and regulate cross-walks, curbs, and gutters; provided, that after the effective date of this Act, all new curbs, and all existing curbs which are a part of any reconstruction, within any block which is contiguous to any highway and in which 50 percent of the territory is devoted to or zoned for business, commercial or industrial use, shall comply with the provisions of subsection (2).

(2) In order to enable persons using wheelchairs to travel freely and without assistance, at each cross-walk a ramp with non-slip surface shall be built into the curb so that the sidewalk and street blend to a common level. Such ramp shall not be less than 32 inches wide and shall not have a slope greater than one

inch rise per 12 inches length, where practicable. In all ramps there shall be a gradual rounding at the bottom of the slope.

The Committee Amendment to **HB 113** is as follows:

Amend printed copy of House Bill 113, page 1, line 4, by deleting "may" and inserting in lieu thereof "shall".

HB 137, AN ACT relating to lead poisoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 211 is created to read as follows:

As used in this Act, unless the context otherwise requires:

- (1) "Department" shall mean the State Department of Health;
- (2) "Commissioner" shall mean the Commissioner of the State Department of Health or his authorized representative;
- (3) "Lead based substance" shall mean any substance containing more than 0.5% lead by weight of non volatile content as provided in KRS 217.801;
- (4) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation;
- (5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling designed or used for human habitation;
- (6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner;
- (7) "At risk persons" shall mean those persons who reside in dwellings or dwelling units within specified geographic areas in which a high incidence of lead poisoning may be reasonably expected or has been reported; and
- (8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after the effective date of this Act.

Section 2. A new section of KRS Chapter 211 is created to read as follows:

- (1) The Commissioner shall establish a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.
- (2) The Commissioner shall also initiate activities which:
 - (a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;
 - (b) Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality or private organizations which cannot secure or provide such services through other sources. The Department shall not assume responsibility for blood lead analysis required for programs in operation on the effective date of this Act;
 - (c) Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and
 - (d) Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.
- (3) The Commissioner may contract with any agencies, individuals, or groups for the provision of services necessary to administer this Act.
- (4) The Commissioner may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.
- (5) The Commissioner shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of this Act. The regulation shall include, but not be limited to, those which govern permissible limits of lead based substances in and about dwellings and dwelling units.

Section 3. A new section of KRS Chapter 211 is created to read as follows:

(1) Every physician who diagnoses, or a nurse, hospital administrator, director of a clinical laboratory or public health officer, who has verified information of the existence of any person found or suspected to have a level of lead in the blood in excess of the permissible limits set out in regulations promulgated by the Commissioner, shall, within 48 hours of receipt of verification thereof, report such information to the Department or to the local or district health officer who shall in turn report such information to the Department. The contents of the report shall include, but not be limited to, the following information:

- (a) The name and address of the person found or suspected to have lead poisoning;
- (b) The date of birth of such person;
- (c) The results of the appropriate laboratory tests made on such person;
- (d) Any other information about such person deemed necessary by the Commissioner.

Any physician, nurse, hospital administrator, director of clinical laboratory, public health officer or allied health professional making such a report in good faith shall be immune from any civil or criminal liability that otherwise might be incurred from the making of such report.

(2) The Commissioner shall maintain comprehensive records of all reports submitted pursuant to this Act. Such records shall be geographically indexed in order to determine the location of areas with a high incidence of reported lead poisoning. Such records shall be public records; provided, however, that the name of any individual shall not be made public unless the Commissioner determines that such inclusion is necessary to protect the health and well-being of the affected individual.

(3) When a case of lead poisoning is reported to the Commissioner, he shall inform such local boards of health, local health department and other persons and health organizations as he deems necessary.

Section 4. A new section of KRS Chapter 211 is created to read as follows:

(1) Testing for lead poisoning shall be an eligible benefit for recipients of the Commonwealth's Medical Assistance program. Testing for lead poisoning shall be made available as part of the regular immunization program offered by the Department and shall be provided without charge by the Department and by local health departments.

(2) The Commissioner shall establish programs throughout the Commonwealth, with priority given to high risk areas, for the voluntary screening and diagnosis of at risk persons. Such programs shall systematically test for elevated lead blood levels in all at risk persons under six (6) years of age and shall include an outreach program if necessary. Priority shall be given to at risk persons who are one (1) year of age through three (3) years of age. Such programs shall not apply to those persons having religious objections to such testing. Such testing shall be made by such means and at such intervals as the Commissioner shall by regulation determine may be medically necessary and proper.

(3) The Commissioner shall be responsible for providing follow-up screening and diagnostic programs for those persons who were previously diagnosed and treated for lead poisoning or were previously diagnosed as having an elevated lead blood level. The frequency with which follow-up shall be and shall be determined by the Commissioner.

Section 5. A new section of KRS Chapter 211 is created to read as follows:

(1) The Commissioner shall establish an educational program to inform parents, teachers, personnel of human resource agencies, owners of dwellings and dwelling units, health service personnel and the general public, of the dangers, frequency, and sources of lead poisoning and the methods of preventing such poisoning.

Section 6. A new section of KRS Chapter 211 is created to read as follows:

(1) When notified that an occupant of a dwelling or dwelling unit is found to have an elevated blood level, an authorized representative of the Department shall inspect the dwelling and dwelling unit, at reasonable times, for the purpose of ascertaining the existence of lead based substance. The representative of the Department shall present proper credentials to the owner or occupant of the dwelling or dwelling unit prior to inspection of the premises. Such representative may remove samples necessary for laboratory analysis, in the determination of the presence of lead based substances in the designated dwelling or dwelling unit.

(2) Upon determination by the Department that there are lead based substances in or upon any dwelling or dwelling unit which may be hazardous to children, or upon receipt of confirmation that an occupant has a level of lead in his blood in excess of permissible limits set out in regulations promulgated by the Commissioner, the Department shall:

(a) In the event that small children reside in the premises, notify the owner and occupant that lead based substances are present on the surfaces of the dwelling or dwelling unit and may constitute a hazard to the health of children;

(b) Inform the local health officers of the results of such determination and provide suitable recommendations for elimination of the problem areas;

(c) Notify the owner of the dwelling or dwelling unit, in writing, advising of the existence of such substances with instructions that these substances, if accessible to children under the age of six (6), shall be

removed, replaced, or securely and permanently covered within a time period not to exceed 30 days and in a manner prescribed by the Department.

(3) The removal of the lead based substances from the dwelling or dwelling unit shall be accomplished by the owner in a manner which will not endanger the health or well-being of its occupants, and result in the safe removal from the premises, and the safe disposition, of flakes, chips, debris, and other potentially harmful materials.

(4) In the event that the owner of the dwelling or dwelling unit does not remove, replace, or securely and permanently cover the lead based substances designated as hazardous within 30 days, the Department shall cause to be posted upon the dwelling or dwelling unit identified as containing lead based substances, a notice of the existence of such substances and the declaration that the dwelling or dwelling unit is unfit for human habitation for those persons under six (6) years of age. The dwelling or dwelling unit shall remain posted until the owner has complied with the orders of the Department.

(5) In such circumstances where the presence of lead based substances in or upon a dwelling or dwelling unit is unsuspected and becomes known to the owner when the dwelling or dwelling unit is already occupied by occupants with children six (6) years of age or younger, the occupants who have a rental agreement with the owner shall not be evicted for that reason.

(6) Determination by the Department that a child under six (6) years of age is in immediate danger from the presence of lead based substances in or upon a dwelling or dwelling unit shall be cause for release from a rental agreement without prejudice to the occupant.

(7) If the owner of the posted dwelling unit permits occupancy of the dwelling or dwelling unit by persons under six (6) years of age, he shall be fined \$25. Each day of continuing violation shall be deemed a separate offense.

Motions, Petitions and Communications

Representative Hopkins requested that his name be added as a co-sponsor of the following bills: **HB 113, HB 137, HB 124.**

Representative Hislope requested that his name be added as a co-sponsor of **HB 124.**

Senate Message

Announcing passage of **SB 20, SB 9.**

Representative Schmaedecke moved that a roll call be taken to show co-sponsors of **HR 17.**

The following members voted to co-sponsor **HR 17**: Representatives Adams, Arnold, Bennett, Benson, Blandford, Bowles, E. Brown, Burch, Chandler, Crupper, Denham, Dietz, Donnermeyer, Foster, Gay, Givhan, Hancock, Hinkle, Hislope, Hopkins, Hughes, Imes, Isler, King, Kleier, Lindsay, Mann, May, Maynard, McBee, McBride, Morgan, Nett, Pearman, Rattliff, Roberts, Sale, Schmaedecke, Schmidt, Smith, Stewart, Stone, Thomas, Troop, Turner, Van Horn, Vincent, Wells, J. White.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session of the General Assembly.

Representative Swinford moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Senate entered upon the floor of the House.

The Speaker recognized the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, assumed the Chair.

Representative Swinford moved that the House and Senate resolve into Joint Session for the purpose of hearing a message from the Honorable Wendell H. Ford, Governor of Kentucky. Agreed.

Representative Swinford moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

A committee from the House, with a like committee from the Senate, appointed to wait upon and escort the Governor to a Joint Session, appeared in the House Chamber with the Honorable Wendell H. Ford.

Lieutenant Governor Carroll introduced the Honorable Wendell H. Ford, Governor of Kentucky.

The Governor's Energy Message
To The Kentucky General Assembly
January 16, 1974

LT. GOVERNOR CARROLL
MR. SPEAKER
MEMBERS OF THE GENERAL ASSEMBLY

There are four reasons for this message. One is to outline the serious implications of America's energy crisis. The second is to assess its impact on Kentucky, now and in the future. Next, I want to briefly review how state government has responded to emerging problems of energy shortages. And fourth, I come before you with recommendations to increase energy production in Kentucky, which will create an unprecedented economic boom, and at the same time propel our state into national leadership for research, development, and energy self-sufficiency.

If the latter point sounds ambitious, it is. An opportunity which has never before presented itself, and may not again, awaits your decision.

THE ENERGY CRISIS

Like others interested and concerned, you have no doubt asked, "How genuine, how legitimate, is the energy crisis?"

So did I, for this is a very complex issue.

Many have placed blame on the huge oil companies, believing some joined in an effort to make excessive profits out of a crisis situation. Nevertheless, whether the charges are true or not, those most knowledgeable, and who have been most critical, take pains to admit that a crisis does exist, no matter where the fault is. For our purposes, how Kentucky responds is far more important than the reasons for a crisis.

No single reason exists for the unfortunate predicament just beginning to bring sacrifice and shock to America. However, if we are surprised, our rude awakening should be only because of the timetable. A crisis has been predicted for over a decade. Repeated warnings fell on deaf ears despite conclusive evidence that sometime during the 1970's the United States would begin suffering as fuel reserves declined to a dangerous level.

Our dilemma began long before October, 1973, when Arab nations invoked their embargo on oil shipments to the United States. The embargo has made matters worse, with the hardest knocks still to come.

In cold, hard facts, the United States with 6% of the world's population, uses nearly 35% of the world's energy. Our demands are exceeding available energy supplies. Even with conservation, needs will continue to grow unless we are willing to succumb before terrible economic and personal hardships.

Although weather, insufficient inventory figures, and the mid-East situation hamper government's ability to pinpoint the national energy status on a week-to-week or month-by-month basis, we do know there is from 10 to 20 percent less petroleum this winter than necessary to keep pace with current demands.

We know America's annual consumption of natural gas is about eight times the volume used 30 years ago. And gas reserves have rapidly dwindled.

We know domestic sources of supply provide 88% of the energy used in America. At first glance our reliance on foreign sources--12%--does not seem unduly large. However, that reliance was mainly on oil. More than one-fourth of the oil consumed here during 1970 came from foreign sources.

We know that by 1985, America will be using twice as much energy as was consumed in 1970. If not, our country will be in a serious depression.

In questioning the true extent of an energy shortage, listen to those already hurt.

- * From the man who has been laid off his assembly job.
- * From the airline pilot, mechanic, or stewardess who must find other work, if he or she can.
- * From the school superintendent who has no idea where to find bus gasoline in the future.
- * From the parent wondering whether or not classes will be conducted on a regular basis because of cold weather.
- * From the individuals who must travel to make a living'
- * From the farmer who can't secure fuel for machinery.
- * From the businessman or industrialist who must increase production but can't find fuel.

It is somewhat easier to project future energy needs rather than future sources. Future supply depends upon the pace of discovery and development of reserves, technological improvements, and a broad range of governmental policies, including environmental controls, price regulations and tax incentives. Studies indicate that in 1985 as much as 40% of our energy consumption would have to be furnished by foreign sources.....two-thirds of the oil and one-third of the natural gas consumed in America.

Such heavy foreign reliance wouldn't be economically wise, not to mention the international political pressures placed against our country. Projected increases in energy imports imply an increasingly unfavorable balance of trade. The international value of the dollar would steadily decline, as foreign energy costs soar.

We are now experiencing similar problems. Thus, the economic implications of our reliance on foreign sources do not lie a decade or so in the future; they are with us now. In other words, it's going to get worse before there is any improvement.

Obviously, America must turn to self-sufficiency. You, probably more than any other legislative body among the 50 states, have the greatest responsibility, and opportunity, in giving direction which will be felt throughout the U.S. as well as in all parts of Kentucky.

I base my contention on several factors--Kentucky's vast energy reserves, primarily coal; Kentucky's potential for economic growth beyond any measure ever achieved; known technology which can produce clean fuel from coal; and Kentucky's obligation to respond with aggressiveness and vision, whenever our future is threatened by adversity.

Without farsighted leadership, without a determination of purpose, the energy crisis will have an even worse impact in later years, on our children and our children's children.

IMPLICATIONS FOR KENTUCKY

Kentucky has already begun to feel the impact of shortages of natural gas and oil. This has posed problems for prospective industry, as in other states. The shortages of oil have been felt in cutbacks of heating and motor fuel. Because of our climate, we are better off than many states, and we have not experienced an electrical shortage since Kentucky's electric utility industry is coal based. But we do have environmental standards to maintain.

And let me emphasize one point which should be remembered throughout this message. The direction I propose for Kentucky will not deter us from improved environmental qualities, whether it be in air emissions or land reclamation. The program I shall propose is designed to produce clean fuel, to stimulate deep mining,

and enhance environmental quality and safety standards through research.

While Kentucky will feel the energy crunch from certain shortages, the state's economy is not expected to be as seriously affected as the nation's. Still, we must remain cautious and conservative. We can expect a slowdown of new industrial acquisitions, a decline in the highway fund, and perhaps a curtailment of recreational activity. The energy crisis suggests some unemployment increase, a slower pace of personal income growth, and continuing inflation.

Elsewhere, the situation will be much worse, as it already is, especially in many northern and eastern states. Here is where Kentucky steps to the forefront.

Projections of energy consumption in the U.S. clearly indicate a rising need for coal. Coal accounted for about 20% of America's energy production in 1970. Output nationally was 600 million tons, with Kentucky supplying about 20% of that amount. Every indication points to twice the national output by 1985, or sooner.

Last year Kentucky produced approximately 128 million tons. The severance tax brought us over \$39 million. Doubling production means twice as much income.

Think what this can mean for education, for roads, for human resources and the other areas of governmental support we agonize over every two years. Think what the added employment will mean. And I haven't even touched on my proposal for research and development which would also generate tremendous economic growth.

There are approximately 65 billion tons of charted coal reserves in Kentucky. Another 50 billion tons are estimated. Kentucky, therefore, is in a most enviable position. A silver lining does appear around the dark cloud of the energy crisis, but unless we act promptly, the silver lining will disappear.

Our vast resources require scientific attention. Of the 65 billion tons of known reserves, about 43 billion have a sulfur content greater than one percent. Air quality standards for new plants without sulfur dioxide removal equipment require bituminous coal having not more than 7/10ths of one percent sulfur. Kentucky must find ways of converting its high-sulfur coals into clean fuels if we are to fully share in the future expansion of coal output.

RESPONSE OF STATE GOVERNMENT

We turn now to a brief review of the actions your state government has taken as the oil shortage has brought the energy crisis to its presently acute stage.

Last July, by executive order, I established the Kentucky Energy Council. This interdepartmental committee was charged with the responsibility of determining directions and priorities so that this Commonwealth would be prepared for, and able to cope with, the burden of the energy crisis.

Since its formation, the Energy Council has also served as our interface with the federal government in the allocation of middle distillates.

I have personally participated in a number of energy meetings with federal representatives. It has been an experience of both frustrations and enlightenment. We have found it difficult to proceed in the positive, assured way we would like, in order to reduce public uncertainties affecting future fuel supplies. However, we have taken, and continue to take, a constructive, supportive approach to the evolving situation at the federal level.

An interdepartmental staff group has performed exceptional service in handling thousands of inquiries about fuel problems, in responding to requests for priority allocations of middle distillates, and in general, of managing the state's part of the fuel allocation process. We therefore have a functioning staff which can respond quickly to any change in federal policy.

The 1972 General Assembly appropriated \$400,000 to support coal research. It was clear that we should begin work on the conversion of Kentucky coals into clean by-product fuels. The \$400,000 has been supplemented by a National Foundation grant in cooperation with the state and Ashland Oil, bringing our research to over a one million dollar effort. The early results have commanded positive federal attention.

PROGRAM TO INCREASE ENERGY PRODUCTION

We must accelerate our research to help assure that certain types of Kentucky coal will remain competitive over the coming decade.

Why is Kentucky's position the most promising, the most logical, the most realistic?

Understanding the critical decline in domestic oil and gas reserves, as well as the grave dangers of depending upon foreign sources, America must immediately turn to new energy supplies where self-sufficiency can be achieved.

Nuclear power has been long-promised without significant results. Today it is under a cloud of environmental and safety fears prompting experts to admit we probably won't have sufficient amounts of nuclear energy before the year 2000, or even beyond.

Solar energy in massive quantities is extremely costly and also far into the future. Scientists believe a worthwhile solar production system might require a joint effort by industrial nations of the world.

Oil shale tends to be an extravagant, misleading item of hope, though some research is underway. Financial and environmental costs are excessive.

Coal is the most practical solution. We know clean fuels can be derived from coal. We know synthetic oil and gas can be produced in huge quantities. We know the emphasis will be on deep-mined coal.

Technology is far enough along for pilot and demonstration projects which will provide the additional research and development necessary for coal to become a major factor in energy production. Last November 16, a Navy destroyer completed a 30-hour cruise, testing the use of coal-derived synthetic crude oil in its engines. The results were successful, yet the process used for conversion is far from the sophisticated programs which now must be carried out before commercial production becomes a reality.

The main point is that someone, somewhere, is going to become involved right away. It would be inexcusable if Kentucky did not become the national leader. Failure to act would only reinforce the image of government being unable or unwilling to take necessary steps in behalf of people.

I am, therefore, recommending in the 1974-1976 budget that \$3.7 million be appropriated for an expansion of our Kentucky energy resource utilization program. The expansion of activities will not be limited to coal gasification and liquefaction research. They will include further mapping of Kentucky coals, research, and demonstration of improvements in mining technology and techniques, support of education and training programs to increase the supply of trained manpower for mining, research on reclamation problems and techniques, and research on environmental effects of Kentucky coals.

The major emphasis in the expanded program will be on coal utilization by conversion into clean fuels. The already favorable characteristics, performance, and potential of Kentucky coals in the various processes for gasification and liquefaction will be accelerated.

In addition, I recommend the expenditure of \$4 million to construct an energy research facility in Fayette County near Lexington. Laboratory research already conducted proves we need expanded facilities, and clearly, we should have one of the nation's major centers for energy research.

These measures will place us in a position to command significant financial support from the federal government and private industry.

A third action I submit for your decision is authorization by the General Assembly of a state commitment of up to \$50 million over the next three bienniums, enabling the Commonwealth to participate in the design, construction and experimental operation of pilot and demonstration projects for coal gasification and liquefaction.

Under such authority the Commonwealth would be a joint participant with the federal government and private enterprise to accelerate the work of bringing coal gasification and liquefaction processes to commercial feasibility.

A major portion of the state's investment in such projects would be recovered from the projects themselves after commercial feasibility is established. In other words, a buy-back clause would return Kentucky's investment, with the exception of research and demonstration development. The state would not invest in projects after they reach the commercial stage.

There are very good reasons for the Commonwealth to take these steps. I have emphasized the need to accelerate the development of processes for conversion of Kentucky coal to clean fuels, and the desirability of establishing Kentucky as a major energy research center.

Investment in pilot and demonstration projects will help assure adequate energy supplies for Kentucky and the nation. Moreover, such investments resulting in adequate energy supplies will make our state more competitive for new and expanded industry.

State support will be repaid many times in the future, through increased employment, production of coal, new sources of income for our citizens, and tax revenue growth for state and local governments.

We stand at the threshold of acquiring a gasification demonstration plant as well as a liquefaction pilot plant.

Both are of such magnitude that private industry cannot finance them alone. It is no secret that the federal government will soon appropriate at least \$20 billion for energy research and development. Much of it will be earmarked for coal, and probably will be spent by 1980. By participating in a joint venture, Kentucky's share of this money would be considerable. State legislation, however, is necessary, if we are to share in the massive federal program.

Part of the \$50 million I am requesting would account for total projects of \$280 million--the difference coming from the federal government and private sources. This, remember, is for demonstration and pilot projects. Hundreds of million dollars more would be spent by industry as commercial operations are conducted, without additional state support.

The remainder of the \$50 million authorized, would, if other pilot or demonstration projects are found beneficial, generate countless additional dollars from either private sources, the federal government or both.

You have, in your power right now, the ability to achieve the most exciting advancements in the history of Kentucky.

You have the power to provide a solution to a national problem.

You have the opportunity to advance the economic growth of Kentucky as it has never been advanced, and at the same time provide answers to such pressing problems as environmental standards, mining safety, mining technology and an improved quality of life for all.

When America embarked on its lunar mission, few anticipated the spinoffs. That program gave us new trends in medicine we wouldn't have had for decades. It gave us fantastic advancements in critical weather forecasting. It gave us communication advantages no other country will match for ages. It gave us mapping techniques in countless areas--natural resources, agriculture, geology to name but a very few. The same can happen here because you have an opportunity to provide the world with by-products from coal, to spawn new industries through by-product research and development.

In summary, the plain facts are:

1. Energy needs projections for this country are not extravagant. They are conservative.
2. These projections illustrate an increasingly heavy reliance on foreign sources of oil and gas, unless coal is developed as that source.
3. Meeting the financial costs, much less the political dangers of heavy reliance on foreign nations would impose great economic hardship on the United States.

4. The United States can achieve early energy self-sufficiency only by extensive utilization of coal by involving its conversion into clean fuels.

5. The federal government is going to provide massive funds for coal research. Industry is willing to spend hundreds of millions of dollars. In addition, by-products add an entirely new dimension to our economic future.

Coal is the answer, and the federal government agrees. By giving top priority to a state program, Kentucky will be prepared to respond to federal legislation which will pour tremendous funds into the state for research and development, and at the same time enable us to generate our own economic progress.

There is no question about liquefaction and gasification. It's going to be produced somewhere. It is feasible, economical and acceptable.

The question is, which state will gain more from this new venture? The answer, is the state where those in authority grasp the opportunity first.

The people will eventually decide whether, in 1974, this body was willing to make something of a once-in-a-century occasion. If you are, their lives will be enhanced. If you are not, Kentucky will merely rock along in the waves of other states where vision and initiative dominated.

Thank you for allowing me to appear, and good afternoon.

Representative Swinford moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Senate Message

Announcing passage of **HCR 14**.

Motions, Petitions and Communications

Representative Graves requested that his name be added as a co-sponsor of **HB 164**.

Orders of the Day

Representative Swinford moved that consideration of **HB 5** and **HB 64**, with Committee Amendment attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

The Speaker announced that without objection, the rules would be suspended for Introduction of Bills and Resolutions, Calendar, and Posting of Bills and Resolutions for Consideration.

Introduction of Bills and Resolutions

HB 247, by Representatives Thomas, Burch, Rattliff and Romines: AN ACT relating to death benefits.

HB 248, by Representative Wible: AN ACT relating to cities.

HB 249, by Representatives Swinford, Holbrook, Head, and Hellard: AN ACT relating to strip mining.

HB 250, by Representatives Kenton, Denham, Hellard, Karem, McBee and Wible: AN ACT relating to jails.

HB 251, by Representatives Swinford, Reynolds, McBride, Paxton, Harris, Blume, Bruce, Watkins and E. Brown: AN ACT relating to energy development and demonstration; and making an appropriation.

HB 252, by Representatives Swinford, Reynolds, Paxton, McBride, Harris, Blume, Bruce, Watkins and E. Brown: AN ACT relating to fossil fuels, hydrocarbons and other natural resources.

HR 18, by Representative Swinford: A RESOLUTION adopting permanent rules to govern the 1974 House of Representatives.

Calendar

HB 11, HB 36, HB 47, HB 71, HB 87 with Committee Amendment attached thereto, **HB 110**, and **HB 124** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 231**.

Appropriations and Revenue: **HB 222, HJR 13**.

Announcements

The Clerk announced the filing of the following Floor Amendments: No. 1 to **HB 76**, Representative Hughes; No. 2 to **HR 18**, Representatives Beshear and Hellard; No. 1 and No. 7 to **HR 18**, Representative Hopkins; No. 3 and No. 6 to **HR 18**, Representative Kafoglis; No. 4 to **HR 18**, Representative Mason; No. 5 to **HR 18**, Representative Beshear; No. 8 and No. 9 to **HR 18**, Representative Overstreet.

Representative Swinford moved that the rules be suspended for the purpose of entertaining a motion on adjournment plans. Agreed.

Representative Swinford moved that when the House adjourns, it do so until 3:00 P.M., Thursday, January 17, 1974. Agreed.

Representative Swinford moved that when the House adjourns today, it do so by voice vote. Agreed.

Recess

Representative Swinford moved that the House recess until 5:30 P.M. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Mr. H. P. Willoughby filed a petition to impeach Judge Armand Angelucci.

Adjournment

Representative Blythe moved that the House adjourn until 3:00 P.M., Thursday, January 17, 1974. Agreed.

THURSDAY, JANUARY 17, 1974

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representative McGill.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 16, 1974, be dispensed with and the same approved. Agreed.

Representative Swinford moved that "Miss Kentucky", Miss Lyda Lewis, and "Miss Kentucky Junior Miss", Miss Betty Boyd Miller, be granted the privilege of the floor, and that each be invited to address the House of Representatives, and that the Speaker appoint a committee to wait upon "Miss Kentucky" and to escort her into the House chamber, and a committee to wait upon "Miss Kentucky Junior Miss" and to escort her into the House chamber. Agreed.

The Speaker appointed the following committee to wait upon "Miss Kentucky" and escort her into the House chamber: Representatives Kidd, Denham and Karem.

The Speaker appointed the following committee to wait upon "Miss Kentucky Junior Miss" and escort her to the House chamber: Representatives Priddy, Stone and Richardson.

The committee escorted "Miss Kentucky Junior Miss" into the House chamber.

Representative Stone moved the adoption of the following Legislative Citation honoring Miss Miller:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Betty Boyd Miller as an outstanding young citizen of this Commonwealth and extends congratulations on her selection as Kentucky Junior Miss for 1974. This body extends best wishes to Miss Miller for the National Junior Miss Pageant, where she will be Kentucky's official representative. (Sponsored by Representative Stone)

Agreed.

The Committee escorted "Miss Kentucky" into the House chamber.

Representative Paxton moved the adoption of the following Legislative Citation honoring Miss Lewis:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Lyda Lewis, Miss Kentucky of 1974, and expresses pride in her representation of Kentucky on its first and award-winning float in the Tournament of Roses Parade in Pasadena, California, on New Year's Day. The House of Representatives of the Commonwealth of Kentucky extends best wishes to Miss Lewis as Kentucky's lovely representative throughout her reign. (Sponsored by Representative Kidd)

Agreed.

Introduction of Bills and Resolutions

HB 253, by Representatives Dunn, Romines, Bennett and Priddy: AN ACT relating to county buildings.

HB 254, by Representative Hinkle: AN ACT relating to cities.

HB 255, by Representative Freeman: AN ACT relating to elections.

HB 256, by Representatives Karem and Imes: AN ACT relating to preferred status for products of the blind.

HB 257, by Representatives Benson, Hellard and Karem: AN ACT relating to sick leave for state employees.

HB 258, by Representative Imes: AN ACT relating to state legislative districts.

HB 259, by Representative Stone: AN ACT relating to retail installment contracts.

HB 260, by Representative Mason: AN ACT relating to packaging of commercial products.

HJR 19, by Representative Freeman: A JOINT RESOLUTION requesting the Department of Transportation to designate Kentucky Highway 160 as a Blue Star Memorial Highway.

HB 261, by Representatives Maynard, Burch, Chandler and Kleier: AN ACT relating to elections.

HB 262, by Representatives Freeman, Van Horn, Dawahare, Adams, Nett, Morgan, Hinkle, Wible, R. Brown, Sale, Karem, Stephens, Mann, Little and J. White: AN ACT relating to higher education.

HB 263, by Representative Mason: AN ACT relating to the testing of children entering the first grade for tuberculosis.

HB 264, by Representative Burch: AN ACT relating to Workmen's Compensation.

HB 265, by Representative Gay: AN ACT relating to public school employees.

HB 266, by Representative Gay: AN ACT relating to state assistance to the office of sheriff in counties containing a population of 12,000 or less.

HB 267, by Representative Gay: AN ACT relating to contracts for the erection of new school buildings and additions and repairs to old buildings.

HB 268, by Representatives Van Horn, Hinkle, J. White and Freeman: AN ACT relating to claims upon the treasury.

HB 269, by Representatives Van Horn, Hinkle, J. White, Freeman, Sale and Hopkins: AN ACT relating to emergency leave for school employees.

HB 270, by Representatives Hislope and Morgan: AN ACT relating to pay of jurors.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 249**.

Appropriations and Revenue: **HB 241, HB 247, HB 251, HB 252**.

Banking and Insurance: **HB 248**.

Counties and Special Districts: **HB 242.**

Education: **HB 234, HB 235, HB 237, HB 240, HB 244.**

Highways and Traffic Safety: **HB 238, HB 243.**

Judiciary: **HB 236, HB 245, HB 246, HR 17.**

State Government: **HB 239, HB 250.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 130.**

Judiciary: **HR 17, HB 172, HB 187, HB 189, HB 190, HB 191, HB 198, HB 206, HB 213, HB 226, HB 227, HB 229, HB 232.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Judiciary: **HB 7, HB 111.**

Report of Committees

The Committee on Rules reported **HB 36, HB 87** with Committee Amendment attached thereto, and **HB 124** have been posted for passage in Orders of the Day, January 18, 1974.

The Committee on Rules reported **HB 47** has been recommitted to the Committee on Education for the purpose of coordinating with **HB 173** and considering an amendment that would bring bus drivers within the act.

The Committee on Appropriations and Revenue reported **HR 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 13, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there be appropriated out of the General Expenditure Fund to the Legislative Research Commission the sum of four thousand three hundred dollars (\$4,300) per calendar day during all regular and special sessions of the General Assembly. This appropriation shall be available for expenditure during the 1973-74 and 1974-75 fiscal years.

WHEREAS, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 8, 1974.

The Committee on Agriculture and Natural Resources reported **HB 15**, **HB 18**, and **HB 73** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to the marketing of milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 260.715 is amended to read as follows:

(1) The commission is authorized and empowered:

(a) To call together milk dealers or handlers and producer-handlers for the purpose of inquiry into marketing practices prevailing from time to time in this state, and if need be, to conduct investigations and/or hearings in connection with such practices for the purpose of making findings relative to any marketing practice found to exist within this state involving the sale or distribution of milk, cottage cheese, or frozen dairy products covered by KRS 260.675 to 260.760, and thereafter to promulgate reasonable rules or regulations for the elimination of any such practice found to be contrary to the provisions of KRS 260.675 to 260.760; and

(b) To establish as a public record the minimum prices applicable to the milk deliveries of producers to a processor or a distributor. Such prices shall be used solely for the purpose of computing the cost of a processor or a distributor pursuant to KRS 260.680 (12) (b). These minimum prices shall, in the discretion of the commission, be established for a processor or a distributor located or distributing milk or milk products in marketing areas as defined by counties or other appropriate geographical subdivision.

(2) Upon receipt of a [written] complaint *or upon the commission's own motion*, [filed with the commission by any milk dealer or handler, producer-handler or recognized association thereof,] the commission may initiate proceedings[,] for the purpose of hearing and investigating evidence of the failure or refusal of any person to comply with the provisions of KRS 260.675 to 260.760 or the rules, regulations and orders of the commission issued thereunder after first giving five (5) days' notice to the alleged violator as to the date and time fixed for the hearing and the nature of the charge or charges. Each witness required to attend the hearing shall be entitled to receive mileage customarily paid to the witnesses in the courts of the commonwealth. The commission shall not be bound by technical rules of evidence, except as may be required by the applicable administrative procedure laws of the commonwealth.

(3) The commission shall have the power during the course of an investigation or hearing to issue subpoenas requiring the attendance and testimony of, or the production of books and records by, any person believed to have information of importance to the hearing or investigation, or possessing any books or records of importance to the hearing or investigation.

(4) Any person who refuses to obey a subpoena issued by the commission, or refuses to be sworn or affirmed, or testify, or who is guilty of any contempt after summons to appear, may be punished as for contempt of court. For this purpose, an application may be made by the commission to the court of the circuit within whose territorial jurisdiction the hearing or investigation is being conducted.

(5) Every rule, regulation or order of the commission shall be posted for public inspection in the main office of the commission and copies of such a rule, regulation or order shall be made available and mailed to all licensees and producer groups and organizations affected thereby. Such rule, regulation or order of the commission, when duly posted or when properly served, shall have the force and effect of law.

HB 18, AN ACT relating to the marketing of milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 260.735 is amended to read as follows:

(1) The commission may decline to grant a license to an applicant or may suspend or revoke a license for the following causes:

(a) Failure to account and make payment for any milk purchased or received from a producer, milk dealer or cooperative that is marketing the milk of its member-producers. Provided, however, That if it be shown that there was reasonable cause for any such failure to account and make payment, and that such

accounting and payment can and will be made promptly, the commission shall not suspend or revoke a license solely for such conduct, until a reasonable opportunity has been afforded the licensee to make accounting and payment;

(b) Doing any act injurious to public health or welfare or doing any act injurious to trade or commerce by disruption of the orderly marketing of milk, cottage cheese, or frozen dairy products to such an extent as to interfere with the ample supply thereof for the inhabitants of the commonwealth. Such act shall include any course of conduct on the part of the milk dealer or handler in violation of the terms of KRS 260.675 to 260.760 or any valid rules, regulations and orders of the commission;

(c) Making a general assignment for the benefit of creditors, or being adjudged a bankrupt;

(d) Participating in practices in selling or otherwise disposing of milk at prices which create a condition of emergency, by disrupting and undermining orderly marketing practices or by imperiling the ability of milk dealers or handlers to make full and prompt payment for such milk;

(e) Failure to keep books and records or to furnish accurately the reports, statements or other information required by the commission;

(f) Having made any statement upon which a license was issued, which is found to have been false or misleading in any particular;

(g) Violation of any of the provisions of KRS 260.675 to 260.760, or any of the rules, regulations or orders of the commission;

(h) Failing to pay any judgment rendered as a result of any violation of the provisions of KRS 260.675 to 260.760, or the rules and regulations promulgated by the commission;

(i) Refusal without reasonable cause to receive milk from a producer because it was not transported to the milk dealer or handler by a hauler of the dealer's or handler's choosing, providing that such producer or hauler has adequate facilities and equipment for hauling, and is delivering or is ready, able and willing to deliver, milk to the plant of such dealer or handler in proper condition and at the time necessary to coincide with the current schedule of plant operations of the dealer or handler;

(j) Any conduct constituting a misrepresentation or fraud on the public.

(2) The burden of proving reasonable cause under any provision of this section shall be upon the [milk dealer or handler] *commission*. The issuance or renewal by the commission of a license hereunder shall not preclude the commission from suspending or revoking such license for a violation committed by the licensee prior to the current license period.

HB 73, AN ACT relating to auditing the accounts of a watershed conservancy district.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 262 is created to read as follows:

(1) An audit of the accounts of each watershed conservancy district shall take place annually. The board of directors of each watershed conservancy district shall select to make the audit Certified Public Accountants who have no personal interest in the financial affairs of the board of directors or in any of its officers or employees.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. This report shall be to the board of directors and in such number of copies as specified by the board of directors. Immediately following receipt of the audit report, the board of directors shall cause a summary of the report or the text of the report to be advertised for the district by publication in a newspaper of general circulation in the area encompassed by the watershed conservancy district. The actual expense of any audit authorized under this section shall be borne by the board of directors.

The Committee on Counties and Special Districts reported **HB 6**, **HB 204**, and **HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to county judges' fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.230 is amended to read as follows:

(1) For services rendered in civil matters in quarterly courts, county judges may collect the same fees allowed by KRS 64.240 to police judges and justices for similar services in civil matters.

(2) For settling accounts of fiduciaries the fee of the county judge may be one-tenth per cent (.1%) of the first twenty-five thousand dollars (\$25,000) and one-twentieth per cent (.05%) of the amount in excess of twenty-five thousand dollars (\$25,000) of the gross estate. *In the case of periodic or partial settlements of the gross estate, the above fees of the county judge shall be based upon the value of that part of the gross estate that is actually being settled and disposed of, transferred or distributed.* In both [no] cases [shall] the fee shall be not less than five dollars (\$5.00) nor more than one hundred dollars (\$100).

HB 204, AN ACT relating to county commissioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.060 is amended to read as follows:

(1) If a majority of the votes cast at an election held under KRS 67.050 are in favor of the fiscal court being composed of the county judge and three (3) commissioners, the county judge shall, before the next regular election for county officers, divide the county into three (3) districts as nearly equal in population as practicable, and at the next regular election for county officers, and every four (4) years thereafter, there shall be elected by the voters of the entire county three (3) commissioners, one (1) from each district who, with the county judge, shall constitute the fiscal court.

(2) (a) In any county containing a city of the first class, which county has heretofore voted in favor of a fiscal court composed of the county judge and three (3) county commissioners, the county judge shall divide the county into three (3) districts as provided in subsection (1), the districts to be designated for identification purposes by the letters A, B and C, respectively.

(b) The three commissioners shall be elected by the qualified voters of the county at large at regular elections held every four years. One commissioner shall represent District A and shall be elected at the regular election in the year 1973, and two commissioners who shall represent Districts B and C, respectively, shall be elected at the regular election in the year 1975.

(c) *Persons seeking the nomination of a major political party as candidate for the office of county commissioner in counties containing a city of the first class shall, in the primary election, be voted upon exclusively by the eligible voters of the district in which the person resides and seeks to represent. Persons seeking the nomination of a minor political party or persons who file as independent candidates shall not be subject to the provisions of this paragraph.*

(3) To be eligible for election as a commissioner representing one of the three districts, a person shall have been a bona fide resident of the district he proposes to represent for at least one year immediately preceding the election, and, upon election, shall continue to reside within the district he was elected to represent for the duration of his term of office, under penalty of forfeiture of the office.

(4) Commissioners elected under this section shall take the oath of office and enter upon the discharge of their duties on the first Monday in January after their election, and shall serve for terms of four (4) years and until their successors are elected and qualify.

(5) No person is eligible to be a county commissioner unless he is at least twenty-four (24) years of age and has been for two (2) years next preceding his election a resident of the county and a citizen of Kentucky.

HB 205, AN ACT relating to the offices of clerks, sheriffs, and jailers in counties having a population of 75,000 or more.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The circuit clerk, county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of \$12,600.

(2) The amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the circuit court and county court, and signed by the judges or a majority thereof of the courts. A certified copy of the order, and of any subsequent changes made therein,

shall, as soon as entered, be forwarded to the department of finance.

(3) Each officer shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses, shall be paid monthly by the state treasurer upon the warrant of the department of finance made payable to the officer. *However, upon the request of an officer, the department of finance shall pay the salaries of said officer's deputies and assistants twice a month rather than once a month.* If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) The number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and county court and signed by the judges or a majority thereof of those courts. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

The Committee on Highways and Traffic Safety reported **HB 42**, with Committee Amendments attached thereto, and **HB 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 42, AN ACT relating to motor vehicle operator licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 186 is created to read as follows:

On and after the effective date of this Act and when the records of the Department of Transportation disclose that any person has been convicted under the traffic laws of this state, or a valid municipal or county ordinance paralleling and substantially conforming to a like state law, of an offense occurring on or after the effective date of this Act, which record of conviction, when taken with, and added to the previous convictions of such person of offenses occurring within five years prior to the date of such offense, as contained in the files of the Department of Transportation, shall reveal that said person is an habitual violator, as hereinafter defined, the Secretary of the Department of Transportation shall forthwith certify to the county attorney of the county in which such person resides according to the records of the department, a full and complete abstract of the person's driving record as shown in the files of the department. The provisions of this section shall apply only to offenses and records of offenses committed after the effective date of this Act. These provisions shall have no retroactive effect before the effective date of this Act.

Section 2. A new section of KRS Chapter 186 is created to read as follows:

An habitual violator shall be construed to mean any person, resident or nonresident, who has been convicted in this state or elsewhere:

(1) Three or more times of voluntary or involuntary manslaughter resulting from the operation of a motor vehicle; or

(2) Three or more times of violating the provisions of KRS Chapter 189 relating to the operation of vehicles while under the influence of drugs or intoxicating liquors, or violating the law of any other state, or a valid municipal or county ordinance, substantially conforming to or paralleling said section; or

(3) Three or more times of operating a vehicle, after forfeiture of his operator's or chauffeur's license, and during the time for which he is deprived of his right so to do, under the provisions of any law of this state, or of any other state, or a valid municipal or county ordinance, substantially conforming to or paralleling the laws of Kentucky; or

(4) Three or more times of perjury or the making of a false affidavit to the Department of Transportation or under any other law of the state requiring the registration of motor vehicles or regulating their operation on highways, or the making of a false statement to the department on any application for an operator's or chauffeur's license; or

(5) Three or more times of any crime punishable as a felony under the motor vehicles and traffic laws of Kentucky or any other felony in the commission of which a motor vehicle is used; or

(6) Three or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in damage to property of another in excess of \$200; or

(7) Three or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in the death of, or injury to, another person; or

(8) Three or more times, singularly or in combination, of any of the offenses hereinabove described in subsections (1) through (7) of this section; or

(9) Fifteen or more times of moving traffic offenses, excluding offenses wherein the defendant or violator has not been convicted of operating his vehicle more than 10 miles per hour in excess of the applicable speed limit, which offenses have been committed during separate and unrelated incidents, including those covered in subsections (1) through (8) of this section, or in the law of any other state, or in a valid municipal or county ordinance, substantially conforming to or paralleling a similar law of Kentucky, which offenses are required to be reported to the Department of Transportation, and the commission of which offenses, singularly or in combination with any other offense or offenses, statutorily requires the suspension or revocation of the license or privilege to operate motor vehicles by the department, or the commission of which offenses singly or in combination with any other offense or offenses, authorizes a court to impose such suspension or revocation for a period of more than, or less than, one year.

Section 3. A new section of KRS Chapter 186 is created to read as follows:

The county attorney, upon receiving from the Secretary of the Department of Transportation the abstract of record shall forthwith file information against the accused person in the court of record having jurisdiction of criminal offenses in the political subdivision in which such person resides.

Section 4. A new section of KRS Chapter 186 is created to read as follows:

The court in which such information is filed shall enter an order directed to the person accused of being "an habitual violator" of the motor vehicle laws to show cause why he should not be barred from operating a motor vehicle in the State of Kentucky. If the court cannot, on the evidence available, make a determination as to the existence of any record of prior conviction, or if the court is not satisfied that the accused is the same person named in the records, or both, the court may certify such question for hearing and determination to the court in which such conviction was had. A court in this state to whom such certification is made shall forthwith conduct a hearing and make a finding of fact and determination of the existence of any record of prior conviction and the identity of the person, and send a certified copy of its order to the court before whom the information alleging the person to be "an habitual violator" is pending. The provisions of this section shall not be binding upon an out-of-state court; however, any court in this state may request any out-of-state court to voluntarily provide the information sought pursuant to this section.

Section 5. A new section of KRS Chapter 186 is created to read as follows:

If the court finds that such accused person is not the same person as the accused named in such records, or that his convictions are not such as to constitute him "an habitual violator" under this Act, the information shall be dismissed; but if the court finds that the accused is the same person named in the records certified by the Secretary, the court shall, except for good cause shown, find such person guilty of being "an habitual violator" of the motor vehicle and traffic laws of Kentucky as set forth herein, and shall, by appropriate order, direct such person not to operate a motor vehicle on the public highways of the State of Kentucky. The clerk of the court shall file with the Department of Transportation a copy of the order of the court which shall become a part of the permanent records of the department.

Section 6. A new section of KRS Chapter 186 is created to read as follows:

No license to operate motor vehicles in Kentucky shall be issued to a convicted habitual violator:

(1) For a period of five years from the date of the order of the court finding such person to be "an habitual violator," and

(2) Until the privilege of such person to operate a motor vehicle has been restored by an order of a court of record entered in a proceeding hereinafter provided.

Section 7. A new section of KRS Chapter 186 is created to read as follows:

At the expiration of five years from the date of any final order of the court entered under the provisions of this Act, finding a person to be "an habitual violator" and directing him not to operate a motor vehicle in this state, such person may petition the court in which he was convicted of being "an habitual violator" or any court of record in Kentucky having criminal jurisdiction in the political subdivision in which such person then resides to have his privilege to operate a motor vehicle restored. And upon such petition, and for good cause shown, the court may, in its discretion, restore the privilege of such person to operate a motor vehicle upon such terms and conditions as the court may prescribe, subject to other provisions of law relating to the issuance of operator's or chauffeur's licenses.

Section 8. A new section of KRS Chapter 186 is created to read as follows:

An appeal may be had from any final action or order of a court of record entered under the provisions of this Act in the same manner and form as such an appeal would be noted, perfected and tried in an appropriate criminal case before such court of record.

Section 9. A new section of KRS Chapter 186 is created to read as follows:

Nothing in this Act shall be construed as amending, modifying or repealing any existing law of Kentucky, or any existing ordinance of any political subdivision, regulating the operating and licensing of motor vehicles, and providing penalties for the violation thereof; or construed so as to preclude the exercise of the regulatory powers of any division, agency, department or political subdivision of the State of Kentucky having the statutory power to regulate the operation and licensing of motor vehicles.

Section 10. A new section of KRS Chapter 186 is created to read as follows:

It shall be unlawful for any person to operate any motor vehicle in this state while the order of the court prohibiting such operation remains in effect. Any person found to be "an habitual violator" under the provisions of this Act who is thereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operating is in effect, shall, upon such conviction, be punished by confinement not to exceed twelve months.

The Committee Amendment No. 1 to **HB 42** is as follows:

Amend printed copy of House Bill 42 page 3, line 25, by inserting after the word "offenses," the following: "excluding speeding in other states and"

The Committee Amendment No. 2 to **HB 42** is as follows:

Amend printed copy of House Bill 42 page 3, line 1, by striking the word "a" and inserting in lieu thereof: "three or more"

and by adding an "s" to the word "affidavit" and inserting after the word "affidavits" the following: "or any combination of three of these offenses"

The Committee Amendment No. 3 to **HB 42** is as follows:

Amend printed copy of House Bill 42 page 8, line 11, by inserting after the word "state" the following: ", unless said operation is in the course of an emergency,"

HB 75, AN ACT relating to traffic control on off-street parking facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of highways.

(2) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle and the approaches to them[.] *and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.*

(3) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of not exceeding one thousand (1000) pounds.

(4) "Operator" means the person in actual physical control of a vehicle.

(5) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1000) pounds.

(6) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(7) "Sharp curve" means a curve of not less than thirty (30) degrees.

(8) "State police" includes any agency for the enforcement of the highway laws established pursuant to law.

(9) "Steep grade" means a grade of exceeding seven per cent (7%).

(10) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(11) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(12) "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

Section 2. KRS 189.390 is amended to read as follows:

(1) No operator of a vehicle upon a highway shall drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(2) Where no condition exists that requires lower speed for compliance with subsection (1) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(a) For all vehicles other than motor trucks, semitrailer trucks, or motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, sixty miles (60) per hour in other locations during the daytime and fifty miles (50) per hour in other locations during the nighttime;

(b) For motor truck and semitrailer trucks, thirty-five (35) miles per hour in any business or residential district, fifty (50) miles per hour in other locations.

(c) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location.

(d) *All vehicles, when using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour.*

(3) Whenever the commissioner of highways shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or upon any part of a state highway within or without the corporate limits of a municipality, said commissioner of highways may determine and establish by official order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or part of the state highway. In no event, however, shall said commissioner increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(4) (a) Whenever municipal authorities or the county court of any county containing a city of the first class or second class determine upon the basis of an engineering and traffic investigation that the speed permitted under subsection (2) of this section is greater or less than is reasonable or safe under the conditions found to exist, at any location within the municipality or unincorporated areas of such county, such municipal authority or county court, subject to paragraph (b) of this subsection, shall determine and authorize by ordinance or order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such times as may be determined when appropriate signs giving notice thereof are appropriately erected at such location. In no event, however, shall said municipal authority or county court increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(b) Alteration of speed limits on state highways within a municipality by municipal authorities or within the unincorporated areas of counties containing a city of the first class or second class by county courts thereof shall not be effective until such alteration has been approved by the commissioner of highways. In no event shall said commissioner approve any alteration which could increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(c) Whenever the county court of any county containing a city of the first class or second class determines upon the basis of an engineering and traffic investigation and study that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce such congestion, then the county

court may by order establish "no parking" areas on and along said highway, or limit the length of time any motor vehicle may be parked in any business district, which order or orders shall be effective at all times and during hours of daytime or nighttime and at such other times as may be determined when appropriate signs giving notice thereof are erected at such locations.

(d) Notwithstanding the other limitations in this subsection, the commissioner of highways may establish, by official order, reasonable and safe speed limits on turnpikes and limited access state highways not to exceed seventy (70) miles per hour.

(5) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(6) In every charge for a violation of any speed limit specified in this section or established as herein authorized, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, also the lawful speed limit applicable at the location where the violation is charged to have occurred.

(7) As used in this section, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Business district," the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes which occupy 300 feet of frontage on one side or 300 feet collectively on both sides of the highway;

(b) "Residential district," the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business;

(c) "State highway," a highway or street maintained by the department of highways;

(d) "Nighttime," the period from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, and at such other periods as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period; "daytime" means at any other period.

(8) The signs and notices which the county judge is authorized hereby to have erected shall be paid for by the fiscal court of the county levy.

Section 3. A new section of KRS Chapter 189 is created to read as follows:

(1) Municipal authorities and fiscal courts may, by ordinance or resolution, assume the responsibility for regulating traffic, parking, and the placement of traffic control devices and signs on off-street parking facilities offered for public use, except for-hire parking facilities listed in KRS 189.700, which lie within their respective jurisdictions.

(2) Traffic control devices and signs shall conform to standards and specifications set out in KRS 189.337.

(3) The cost of such traffic control devices, signs, painting of traffic lanes and parking spaces shall be borne by the holder of title to the off-street parking facility offered for public use, if privately owned, and by the respective local government, if publicly owned.

The Committee on State Government reported **HB 1**, **HB 181**, **HB 183**, and **HB 216** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to the acquisition, use and control, and disposition of real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.463 is amended to read as follows:

The department shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects.

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the commissioner of finance as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360.

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the commissioner of finance. All such sales or other disposition shall be made in accordance with KRS 45.360.

(4)(a) To control the use of any real property owned or otherwise held by the commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the department finds the same is not required for the purposes of any particular state agency.

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. The department is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, *exclusive of the third and fourth floors of the new state capitol*, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the department deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission *and its subcommittees*, the executive offices, the Court of Appeals and the clerk of the Court of Appeals, the department of law and the law library, in the new state capitol, *provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol*. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol.

(5) To acquire, by condemnation in any manner provided in KRS chapter 416, or KRS 177.081 to 177.089, any real estate necessary for use by the state or by any state agency, when the department is unable to agree with the owner thereof on a price for such real estate.

(6) To lease any real property, or any interest in such real property, owned, by the state or any agency thereof, in accordance with KRS 45.360.

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550.

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

HB 181, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 2 is created to read as follows:

The first succeeding twelve Saturdays after the first Monday in January in each even-numbered year are hereby declared to be legal holidays.

Section 2. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the fourth Monday in October (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company may, at its option, either close or remain open for business on the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the

second Monday in October (Columbus Day), [and] the fourth Monday in October (Veterans Day), *and on any of the first succeeding Saturdays after the first Monday in January in each even-numbered year.* Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Section 3. Whereas the General Assembly is now in session and the current workload is such that changes in the designation of holidays are necessary to insure that those tasks before it be accomplished, an emergency is declared to exist and this act shall become effective upon its passage and approval by the Governor.

Section 4. This act shall apply to any of the twelve Saturdays in 1974 that remain after the effective date of this act, and thereafter the act shall have the normal application specified in Sections 1 and 2 of the act.

HB 183, AN ACT relating to low income housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.240 is amended to read as follows:

This chapter shall be known and may be cited as the "*Mae Street Kidd Kentucky Housing Corporation Act.*"

HB 216, AN ACT relating to Kentucky retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) Any employee entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as *current* service his period of service in the armed forces of the United States, not to exceed six years, if his discharge therefrom is honorable and he is re-employed within two years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is re-employed within two years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two years after discharge, shall be entitled to have credited as *prior* service his period of service in the armed forces, not to exceed six years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight years current service, credited to his account, as *current service* without having to meet the re-employment criteria.

(4) *Any employe upon completion of the minimum service prescribed in KRS 61.559 shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time funds are available in the account.*

Section 2. KRS 16.541 is amended to read as follows:

(1) Any person who left the state police or its predecessor in order to enter the armed forces of the United States and who is re-employed by the state police after the effective date of the system is entitled to have credited as *current service* his period of service in such armed forces, not to exceed six (6) years, provided he applies for reinstatement within two (2) years of discharge, which must be honorable, or within two (2) years of a subsequent termination of any total disability, and, subject to the approval of the state police personnel board, is re-employed.

(2) Any person who prior to the effective date of the system left the state police or its predecessor in order to enter the armed forces of the United States and who was re-employed within two (2) years after his honorable discharge therefrom prior to the effective date of the system shall be entitled to have credited as service his period of service in the armed forces, not to exceed six (6) years.

(3) *Any member upon completion of five (5) years of service shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (2) of this section provided he pays the current employe contribution ratio of the cost of such service based on the formula adopted by the board. The payment by the member shall be deposited to his individual member's account. The remaining ratio of contributions shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the retirement allowance account. If no funds are available in the special appropriation account the board shall not accept employe payments until such time funds are available in the account.*

Calendar

HB 148, HB 53, HB 77, HB 90, HB 119, HB 48, HB 52 with Committee Amendment attached thereto, **HB 113** with Committee Amendment attached thereto, and **HB 137** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Speaker Blume presiding.

Motions, Petitions and Communications

Representative Swinford moved that the petition filed on Wednesday, January 16, 1974, by H. P. Willoughby petitioning the House of Representatives to impeach Armand Angelucci, Judge, Fayette Circuit Court, Third Division, be referred to the House Committee on Judiciary and the committee to report thereon to the House. Agreed.

Representative Whitfield moved that the House recall **HB 31** from the Senate for further consideration.

Representative Karem moved that the motion that the House recall **HB 31** from the Senate be laid on the table.

On the roll call the vote was yeas 31-Bennett, Benson, Blandford, Blume, Crupper, Dietz, Donnermeyer, Dunn, Hancock, Hurst, Isler, Kafoglis, Karem, Kenton, Little, Loudon, Mann, McBee, McBride, O'Brien, Pearman, Paxton, Priddy, Quickert, Romines, Sale, Schmaedecke, Schmidt, Siemens, Turner, Yates. Nays 57-Allen, Arnold, Blythe, Bowles, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis,

Dawahare, DeMarcus, Denham, Foster, Gay, Givhan, Guenther, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, King, Lewis, Lindsay, Mason, May, Maynard, McBrayer, Nett, Overstreet, Rattliff, Reynolds, Richardson, Roberts, Robinson, Sharpe, Smith, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible.

The motion that the motion that the House recall **HB 31** from the Senate be laid on the table was rejected.

Representative DeMarcus moved that the rules be suspended for the purpose of filing an amendment.

The Speaker ruled Representative DeMarcus' motion out of order.

On the roll call the vote was yeas 50-Adams, Allen, Arnold, Blythe, Bowles, Brewer, Bruce, Burch, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Foster, Gay, Givhan, Guenther, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, King, May, Maynard, McBrayer, Nett, Overstreet, Rattliff, Reynolds, Richardson, Robinson, Sharpe, Smith, Stone, Swinford, Troop, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 42-Bennett, Benson, Beshear, Blandford, Blume, R. Brown, Chandler, Crupper, Dietz, Donnermeyer, Dunn, Graves, Hancock, Harris, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Loudon, Mann, Mason, McBee, McBride, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Roberts, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Thomas, Turner, Yates.

The motion that the House recall **HB 31** from the Senate was adopted.

Representative Watkins requested that his name be added as a co-sponsor of **HR 17**.

Representative DeMarcus moved that the rules be suspended for the purpose of filing an amendment. Agreed.

Representative DeMarcus filed Amendment No. 10 to **HR 18**.

Representative Kenton moved the adoption of the following Legislative Citation No. 10:

The House of Representatives of the Commonwealth of Kentucky hereby honors George Clarke Martin for his distinguished service to the housing industry, his community, and the Commonwealth of Kentucky and extends congratulations to him as the first Kentuckian to be elected President of the National Association of Home Builders, a position he held for 1973. This body commends Mr. Martin for his outstanding representation of the housing industry and this Commonwealth in his travels and speaking engagements all over the world. (Sponsored by Representative Kenton)

Agreed.

Representative Quickert moved that the rules be suspended for the purpose of filing an amendment. Agreed.

Representative Quickert filed Floor Amendment No. 4 to **HB 64**.

The Speaker announced that without objection a roll call would be taken for co-sponsors of **HB 124**.

The following members voted to co-sponsor **HB 124**: Adams, Allen, Arnold, Bennett, Benson, Blandford, Blythe, Brewer, Bruce, Burch, Chandler, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Hinkle, Hislope, Holloway, Hopkins, Isler, Lewis, Lindsay, Little, Loudon, Mann, Mason, Maynard, McBee, Nett, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stone, Thomas, Van Horn, Vincent, J. White, Wible, Yates.

Representatives Loudon and Watkins requested that their names be added as co-sponsors of **HR 17**.

Representatives Donnermeyer and Mann requested that their names be added as co-sponsors of **HB 164**.

Orders of the Day

Representative Swinford moved that **HB 5** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Hinkle moved that **HB 5** be placed upon its passage.

On the roll call the vote was yeas 96-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 5 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 5** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 64**, with Committee Amendment and Floor Amendments attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved the adoption of Committee Amendment No. 1 to **HB 64**. Agreed.

Representative Blandford moved the adoption of the following Floor Amendment No. 3 to **HB 64**:

Amend printed copy of House Bill 64 page 11, line 25, by inserting following said line the following:

“(10) Nothing this section shall be construed as giving to the Commission the right or authority to supersede the authority of the Department in the administration of KRS 353.060.”

Agreed.

Representative Quickert moved the adoption of the following Floor Amendment No. 4 to **HB 64**:

Amend printed copy of House Bill 64 page 23, lines 14 and 15, by deleting the following after the number “353;”: “and whether the findings of fact support the order” and inserting in lieu thereof the following: “the order is clearly erroneous on the basis of reliable, probative and material evidence contained in the whole record; or the order is arbitrary, or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion”.

Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 2 to **HB 64**:

Amend printed copy of House Bill 64 page 7, line 18, after gas, add: “, and one of which shall be a petroleum engineer and one of which shall be a petroleum geologist.”

Rejected.

Representative Swinford moved that **HB 64** as amended be placed upon its passage.

Representative DeMarcus moved that **HB 64** as amended be laid on the table.

On the roll call the vote was yeas 17-Allen, Blythe, Bowles, Brewer, R. Brown, Crupper, DeMarcus, Denham, Guenther, Hancock, Karem, Mason, O'Brien, Overstreet, Rattliff, Richardson, Robinson. Nays 70-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hardin, Harris, Hellard, Hinkle,

Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kleier, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, Nett, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates.

The motion that **HB 64** as amended be laid on the table was defeated.

Representative Kafoglis moved that **HB 64** as amended be recommitted to the Committee on State Government. Rejected.

Representative Nett moved that action on **HB 64** as amended be deferred and that it be placed first in Orders of the Day on January 21, 1974.

On the roll call the vote was yeas 36-Allen, Beshear, Blythe, Bowles, Brewer, R. Brown, Clarke, Crupper, Dawahare, DeMarcus, Denham, Freeman, Gay, Guenther, Hancock, Hinkle, Hislope, Hopkins, Hurst, Kafoglis, Karem, King, Kleier, Mason, Maynard, Nett, O'Brien, Overstreet, Rattliff, Richardson, Robinson, Romines, Smith, Thomas, Van Horn, Wells. Nays 56-Adams, Arnold, Bennett, Benson, Blandford, Blume, Bruce, Burch, Chandler, Clapp, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hughes, Imes, Isler, Kenton, Lewis, Lindsay, Loudon, Mann, May, McBee, McBrayer, McBride, Morgan, Pearman, Paxton, Quickert, Reynolds, Roberts, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Vincent, Watkins, Whitfield, Wible, Yates.

The motion that **HB 64** as amended be deferred and placed first in Orders of the Day on January 21, 1974, was defeated.

On the roll call the vote was yeas 74-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Lewis, Lindsay, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, Morgan, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible Yates. Nays 18-Allen, Bowles, Brewer, Crupper, DeMarcus, Denham, Hancock, Kafoglis, Karem, King, Kleier, Mason, Nett, O'Brien, Overstreet, Rattliff, Richardson, Robinson.

HB 64 as amended was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 64** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Clerk announced Representative Hinkle filed Floor Amendment No. 1 to **HB 71**.

Representative Swinford moved that the rules be suspended for consideration of **HR 18**. Agreed.

Representative Swinford moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION adopting permanent rules to govern the 1974 House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the following rules are adopted to govern the House of Representatives during the 1974 and 1975 sessions of the General Assembly, superseding the rules under which the House of Representatives has operated.

SESSIONS OF THE HOUSE

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Motions, Petitions and Communications.
10. Orders of the Day.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's Desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to

postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Clerk. The Clerk shall have charge of all the clerical business of the House. She shall have charge of the Clerk's section of the House Chamber and shall see that no one is permitted therein except herself, those assisting her, and members.

The Clerk shall read to the House papers ordered to be read; call the roll and note and report the absentees when a call of the House is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the House; keep a Calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate, unless otherwise ordered.

Rule 30. Journal of Proceedings. The Clerk shall cause to be kept the Journal of the proceedings of the House. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Clerk or one of her assistants shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the House to the Legislative Research Commission, which shall deliver it to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Clerk shall have custody of all records, papers and bills of the House and shall not allow them to be taken out of her possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred, or to the Legislative Research Commission, as specified in these Rules, and then she shall take a proper receipt therefor. She shall endorse on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employees. All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Elections and Constitutional Amendments
9. Health and Welfare
10. Highways and Traffic Safety
11. Judiciary
12. Labor and Industry
13. Public Utilities and Transportation
14. State Government

The standing committees of the House shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the House shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than fifteen (15) members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over that subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Natural Resources:** matters pertaining to crop, livestock, poultry and their marketing, disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; the state fair; county fairs.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking, banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law, mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Business Organizations and Professions:** matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; non-profit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships, trade practices.

5. **Cities:** matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue, public works; police and fire departments and their retirement systems; municipal utilities and waterworks; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. **Counties and Special Districts:** matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employees; the offices of county judge, magistrates, county attorney, sheriff, constable, county police jailer, coroner, surveyor, county clerk, county employees civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; fire protection districts; drainage districts and local flood control and water usage; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. **Education:** matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts; teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. Election and Constitutional Amendments: matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officer and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

9. Health and Welfare: matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; corrections; penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes, incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants, alcoholism; water pollution; air pollution; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10. Highways and Traffic Safety: matters pertaining to the construction and maintenance of the state highway system; the department of highways; state aid for local roads and streets; the state police; the federal highway safety law; turnpike authority; state and federal highways; limited-access facilities; use of road bond monies; billboards; junkyards; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

11. Judiciary: matters pertaining to the Court of Appeals, circuit courts, county and probate courts, quarterly courts, justices of the peace courts, and police courts; jurisdiction, rules, terms, judges, commissioners, selection, districts, qualifications, compensation and retirement; clerk of courts; juries; attorneys; commissioners and receivers; court reports; contracts; debtor-creditor relations; ownership and conveyance of property; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; juvenile courts and support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; habeas corpus; witnesses; evidence; legal notices; crimes and punishments; construction of statutes; civil and criminal procedure; civil rights.

12. Labor and Industry: matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workmen's compensation; consumer protection; industrial weights and measures.

13. Public Utilities and Transportation: matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; telephone companies and cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; motor carriers.

14. State Government: matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; Commonwealth attorney; circuit clerk.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than five nor more than seven members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee. Each member shall be given an opportunity upon request to appear before the Rules Committee

when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 43. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Rule 44. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 45. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass," or

"Without expression of opinion."

Rule 46. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 47. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 48. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least one legislative day prior to their consideration the bills and resolutions to be considered by the committee at its next meeting and no measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least one legislative day prior to the meeting.

BILLS AND RESOLUTIONS

Rule 49. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be given to the Legislative Research Commission. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method or preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 50. Introduction of Bills. Bills and resolutions may be introduced by filing them in the Clerk's office at any time that her office is open. Bills and resolutions introduced by filing them in the Clerk's office after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law, shall be introduced during the last ten (10) legislative days of the session. The last two legislative days shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 51. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 52. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 53. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass, or without expression of opinion, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar to be kept by him, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 54. Calendar. The Clerk shall keep a Calendar for each legislative day of the session showing the bills entitled to a second reading upon that day and shall post conspicuously the number of all bills recommended for said Calendar by the standing committees and the number of all bills placed in said Calendar by the Committee of the Whole House.

Rule 55. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 56. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 57. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Clerk, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced and the Clerk shall forward one copy to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appear to the House.

Rule 58. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Clerk and so certified by him endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 59. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the House Clerk to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The House Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Clerk of the House shall engross said amendments in the original copy of the House bill, attesting the same, before delivering the bill to the Enrolling Clerk of the House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 60. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 61. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 62. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 63. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House. No roll-call vote shall be started until two minutes after the warning chimes have been sounded.

Rule 64. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 65. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 66. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 67. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 68. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 69. Lobbying in the House Chambers. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Rule 70. Restrictions. No article, booklet, pamphlet or any other printed matter shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. The Sergeant-at-Arms shall be charged with the duty of enforcing this rule.

RULES

Rule 71. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 72. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

Representative Hughes moved the adoption of the Previous Question on **HR 18**.

On the roll call the vote was yeas 57-Adams, Arnold, Bennett, Benson, Blandford, Blume, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Hancock, Harris, Head, Hinkle, Hughes, Hurst, Isler, Kenton, Kidd, Little, Loudon, Mann, May, Maynard, McBee, McBride, O'Brien, Pearman, Paxton, Priddy, Reynolds, Roberts, Romines, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Wells, J. White, Whitfield, Yates. Nays 36-Allen, Beshear, Blythe, Clarke, Davis, Dawahare, DeMarcus, Gay, Givhan, Guenther, Hardin, Hellard, Holbrook, Holloway, Hopkins, Imes, Kafoglis, Kareem, King, Kleier, Lewis, Lindsay, Mason, McBrayer, Morgan, Nett, Overstreet, Quickert, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Van Horn, G. White, Wible.

The Previous Question was adopted on **HR 18**.

Representative Morgan requested that his following remarks in regard to **HR 18** be spread upon the Journal: "Were I afforded the opportunity to vote on an amendment to require the Committee on Rules to be opened to the public, I would have voted for the amendment." Agreed.

Representative Van Horn requested that he go on record as being in favor of an amendment to **HR 18** to require the Committee on Rules to be opened to the public. Agreed.

Representative Hopkins requested that he go on record as being in favor of an amendment to **HR 18** to require the Committee on Rules to be opened to the public. Agreed.

Representative Mason requested that he go on record as being in favor of an amendment to **HR 18** to require the Committee on Rules to be opened to the public. Agreed.

Representative Hopkins requested that his following remarks concerning **HR 18** be spread upon the Journal. Agreed.

In asking that you vote favorably on the proposed amendment, I'm asking you to lift the veil of secrecy from the Rules Committee.

I ask that each of you carefully weigh the principal arguments that have been made for and against the proposal.

I have no quarrel with opponents of this amendment.

I do not doubt the sincerity of their opposition.

I have no reason to question their motives or suspect their willingness to improve this legislative body.

But I would call into question and ask that you examine the logic of their arguments.

One argument frequently voiced is that the presence of the news media in these committee meetings would (1) inhibit and (2) distort the actions and discussion of the members.

If that were true;

If the news media represents such a threat to candid discussion;

If, as advocates of this theory imply, the members of this body are so void of principles and integrity that they would take one position in private and another in public, it seems to me that we have two courses open to us.

We can either open all the committee meetings to the media and the public and expose political cowardice for what it is, or we can move to expell the news media and the public from every meeting, including this session.

No one yet has claimed that the press is a perfect institution.

In our careers, all of us probably have known instances where the ethics of journalism were seriously breeched by members of the profession.

But even with these imperfections, let all of us realize that the news media is not just one individual reporter, not just one newspaper or one television or radio station;

It is more than that;

It is the eyes and ears of the people whose business we are transacting here.

And so when opponents of this measure say the media has no business in the Rules Committee, what they are saying in reality is that the people of Kentucky have no business in the Rules Committee.

Surely that is not the majority opinion of this body.

Another ploy to defeat this motion to open all committee meetings has been a compromise proposal to restrict the number of days the Rules Committee may hold a bill.

I favor the limitations that have been proposed and I commend those who originated the compromise suggestion.

But I would submit that this proposal is not without pitfalls and does not cure the problem of secrecy; it will only cause more deception and evasion.

I trust we would not be dissuaded by this compromise from doing what, in our hearts, we know is in the best interest of legislative integrity and the people of Kentucky.

The compromise is, after all, only an admission that change is needed.

The final argument raised last week against this motion was the contention that the resolution to open the meetings was premature.

Ladies and gentlemen, I submit that the time for us to act is now.

The movement to lift the cloak of secrecy from our proceedings is not premature.

If anything, it is too late.

We have only to look at how government is perceived by the people of Kentucky and the nation to know that is right.

Louis Harris, a respected public opinion surveyor and analyst, is the author of a book called "The Anguish of Change", in which he offers some interpretations of the opinions Americans have expressed in scientific surveys the past few years.

These surveys show that between 1966 and 1973, public confidence in most if not all our public institutions has plunged and Americans have expressed a somewhat frustrated plea for change.

And to whom do they look to implement these changes?

You and me, ladies and gentlemen. . . they look to the leaders of government.

They are convinced that only through a more perceptive and responsive leadership in government can the needed changes be made.

In other words, according to Mr. Harris, we have reached the point that the people are ahead of the so-called leaders in government.

One of the common smoke screens used by leaders who want to get the public heat off their backs is to explain that the complexities of modern problems are so vast that the simple citizen cannot understand them.

Therefore, the people should just relax and be happily consoled in their reassurance that ---"Papa knows best"---even though Papa's guidance seems to continuously bring us out at the wrong places.

These leaders contend that the problems of managing big government are so involved that we are wise to leave them to the "experts."

And, of course, by "experts" they mean whoever is handling these problems at the time.

It is because of the very involved nature of our modern society and its institutions that we must keep our attention fixed upon general objectives.

And so, I urge you to act now, so that we can begin to catch up;

So that we can begin to restore public confidence by showing the courage to act on the people's business in public rather than in secret.

One final note to those of you who feel as I do that this change in the rules is needed.

There are those who seek to make this a partisan issue and hide the logic of this matter behind party labels.

The vents of the past months should convince every Kentuckian that neither of our two great political parties has a monopoly on morality or immorality.

Washington has its Watergate and Kentucky has the unexplained \$800,000 fund-raising project.

And both parties have suffered the stain of these ugly episodes.

I have spoken to many of you on the subject of legislative reform and improvement.

I know many of you will join in support of the sunshine law that has been proposed, as I will.

I would only ask how we can in good conscience vote to close our own meetings and then dictate that every other public body in Kentucky should conduct their affairs in open view of the press and the people.

The proposal to open committee meetings is not a Democrat or a Republican issue. . . . yet.

And you can prevent it from being a partisan issue by your vote today.

It is not in the hands of the minority party in these chambers to make this a partisan matter;

That can only be done by the members of the majority party.

Whether you will decide that your party is the party of secrecy, is the party of exclusion, is the party of the closed door is up to you.

I urge you to consider the arguments for and against this proposal and then record an overwhelming, bipartisan victory for the people and for the legislative process by voting to open all committee meetings of the Kentucky General Assembly.

Thomas MacAulay, the British historian who died on the eve of our Civil War, wrote a warning to America.

He predicted the possibility that our country would come under a dictatorship.

The alternative which he forecast is no less prevalent in Kentucky today.

MacAulay said, and I quote:

"Your republic will be fearfully plundered and laid waste by barbarians in the Twentieth Century as the Roman Empire was in the fifth, with this difference----that the Huns and vandals that ravaged the Roman Empire came from without, and your Huns and vandals will have been engendered within your own county by your own institutions."

Finally, ladies and gentlemen, "How will you answer to the people in the gallery today;

How will you answer to your children;

How will you answer to your family;

How will you answer to the citizens of Kentucky...when they ask you.....

What are you afraid of.

Representative King requested that his following remarks concerning **HR 18** be spread upon the Journal. Agreed.

I firmly believe that all legislative matters are public business and that all meetings of the various committees of the House of Representatives should be open to the press and the public.

The public is entitled to full disclosure of public business and it is a gross breach of public trust for an elected member of the General Assembly to cloak his or her conduct and actions in secrecy behind closed doors.

The foundation of our democracy will be inundated and possibly destroyed unless public confidence is restored in public officials. The needed confidence of the public cannot be restored so long as public business is conducted behind closed doors.

When the democratic caucus considered the Permanent Rules to govern the House of Representatives during the 1974 and 1975 sessions of the General Assembly, I spoke, advocated and voted unsuccessfully for open public meetings of the Rules Committee and all other committees of the House of Representatives.

Further, that I would have voted for opening all committees to the press and the public if I had been afforded the opportunity to amend the rules. I voted unsuccessfully against the Previous Question which cut off the possibility of amending the rules to permit open meetings.

Representative Blythe requested that his statement be spread upon the Journal, that had the Previous Question not been adopted on **HR 18**, he would have voted for an amendment to require the Committee on

Rules to be opened to the public. Agreed.

Representative Wible requested that his statement be spread upon the Journal, that had the Previous Question not been adopted on **HR 18**, he would have voted for an amendment to require the Committee on Rules to be opened to the public. Agreed.

Representative Lewis requested that his statement be spread upon the Journal, that had the Previous Question not been adopted on **HR 18**, he would have voted for an amendment to require the Committee on Rules to be opened to the public. Agreed.

Representative Imes requested that his statement be spread upon the Journal that he, too, would have voted to open the Committee on Rules to members of the General Assembly "especially" had he had the opportunity to do so. Agreed.

Representative Nett requested that the Journal show he would have voted for an amendment on **HR 18** to open the Committee on Rules had he had the opportunity to do so. Agreed.

Representative Lindsay requested that the Journal show he voted against the Previous Question on **HR 18** and he would have voted for an amendment on **HR 18** to open the Committee on Rules had he had the opportunity to do so. Agreed.

Representative Guenther requested that the Journal show he would have voted for an amendment on **HR 18** to open the Committee on Rules had he had the opportunity to do so. Agreed.

Representative Maynard requested that the Journal show he would have voted "nay" on an amendment on **HR 18** to open the Committee on Rules. Agreed.

Speaker Pro Tempore Paxton presiding.

Representative Swinford moved the adoption of **HR 18**. Agreed.

Speaker Blume presiding.

Announcements

Representative Schmaedecke moved that the House adjourn.

Representative Swinford moved that the rules be suspended for the purpose of entertaining a motion on adjournment plans. Agreed.

Representative Swinford moved that when the House adjourns, it do so until 10:30 A. M., on Friday, January 18, 1974. Agreed.

Representative Imes requested that the Journal show he voted "nay" on the Previous Question on **HR 18** for the purpose of supporting the proposed Floor Amendments No. 8 and No. 9 to **HR 18**. Agreed.

Adjournment

Representative Swinford moved that the House adjourn until 10:30 A. M., Friday, January 18, 1974.

On the roll call the vote was yeas 85-Adams, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

FRIDAY, JANUARY 18, 1974

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representatives Blume, E. Brown, Freeman, Guenther, Hurst, McBrayer, McBride and McGill.

Representative Swinford moved that absent members who have filed excuses be granted leave of absence.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Giyhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kidd, King, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBee, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion that absent members who have filed excuses be granted leave of absence was adopted.

The following members filed excuses: Representatives Blume, E. Brown, Freeman, Guenther, Hurst, McBrayer, McBride, and McGill.

Representative Hughes moved that the reading of the Journal of January 17, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 271, by Representative Hinkle: AN ACT relating to education for exceptional children.

HB 272, by Representative G. White: AN ACT relating to the honey bee.

HB 273, by Representative J. White and Gay: AN ACT relating to state legislative districts.

HB 274, by Representative Mason: AN ACT relating to inheritance tax.

HB 275, by Representatives Bruce and Whitfield: AN ACT relating to assistant county attorneys.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 266, HB 268, HB 270.**

Banking and Insurance: **HB 259.**

Cities: **HB 254.**

Counties and Special Districts: **HB 253.**

Education: **HB 262, HB 263, HB 265, HB 267, HB 269, SB 20.**

Elections and Constitutional Amendments: **HB 255, HB 261.**

Health and Welfare: **HB 256.**

Judiciary: **SB 9, SB 10, SB 11, SB 25, SB 52.**

Labor and Industry: **HB 260, HB 264.**

State Government: **HB 257, HB 258, SB 15.**

Report of Committees

The Committee on Rules reported **HB 110, HB 48, HB 53, HB 77, HB 90, HB 113** with Committee Amendment attached thereto, and **HB 119** have been posted for passage in Orders of the Day, January 21, 1974.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 30, HB 250, SB 15.**

Elections and Constitutional Amendments: **HB 49, HB 61, HB 88, HB 68.**

Calendar

HR 13, HB 15, HB 18, HB 73, HB 6, HB 204, HB 205, HB 42 with Committee Amendments attached thereto, **HB 75, HB 1, HB 181, HB 183** and **HB 216** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Foster requested that his name be added as a co-sponsor of **HB 164.**

Senate Message

Announcing passage of **SB 45.**

Orders of the Day

Representative Swinford moved that **HB 36** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Siemens moved that **HB 36** be placed upon its passage.

On the roll call the vote was yeas 82-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook,

Holloway, Hughes, Imes, Isler, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Hopkins.

HB 36 was passed and the title agreed to.

Representatives Bruce, Kafoglis and Kenton requested that they be recorded as voting "yea" on the passage of **HB 36**.

Representative Swinford moved that the vote on the passage of **HB 36** be reconsidered.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion that the vote on **HB 36** be reconsidered was adopted.

Representative Swinford moved that **HB 36** be placed upon its passage.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Hopkins.

HB 36 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 36** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 87**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Reynolds moved the adoption of the Committee Amendment to **HB 87**. Agreed.

Representative Reynolds moved that **HB 87** as amended be placed upon its passage.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 87 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 87** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 124** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hughes moved that **HB 124** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Turner.

HB 124 was passed and the title agreed to.

Representative Hughes moved that the vote by which **HB 124** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that the rules be suspended for announcements concerning co-sponsoring of bills. Agreed.

Representatives Denham, Romines, Foster, and Pearman requested that their names be added as co-sponsors of **HB 164**.

Representative Hancock requested that his name be added as a co-sponsor of **HB 142**.

Representative Watkins moved that the rules be suspended for the purpose of introduction of a Bill. Agreed.

Introduction of Bills and Resolutions

HB 276, by Representatives Watkins, Robinson and Gay: AN ACT relating to privileged communications.

Announcements

Representative Thomas requested that he be recorded as voting "yea" on **HB 124**.

The Clerk announced that Representative Kafoglis filed Floor Amendment No. 1 to **HB 77** and Representative Clapp filed Floor Amendment No. 1 to **HB 204**.

Adjournment

Representative Swinford moved that the House adjourn until 4:00 P.M., Monday, January 21, 1974.

On the roll call the vote was yeas 75-Adams, Arnold, Bennett, Benson, Beshear, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Head, Hellard, Hinkle, Holloway, Hopkins, Imes, Isler, Kafoglis, Kareem, Kenton, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

MONDAY, JANUARY 21, 1974

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives Allen, E. Brown, McBrayer and McGill.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Hughes moved that the reading of the Journal of January 18, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 277, by Representative Schmidt: AN ACT relating to elections.

HB 278, by Representative Loudon: AN ACT proposing an amendment to Section 31 of the Constitution of Kentucky, relating to terms of members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

HB 279, by Representative Thomas: AN ACT relating to the length of the school day.

HB 280, by Representative Benson: AN ACT relating to debt collection.

HB 281, by Representative Benson: AN ACT relating to consumer loan transactions.

HB 282, by Representative Benson: AN ACT providing for a copy of the complaint to be attached to the summons in all civil actions.

HB 283, by Representatives Van Horn, Wells, J. White and Hinkle: AN ACT relating to elections.

HB 284, by Representative G. White: AN ACT relating to assistant county attorneys.

HB 285, by Representative Nett: AN ACT relating to motor vehicle operator's licenses.

HB 286, by Representative Nett: AN ACT relating to alcoholic beverages.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 274**.

Counties and Special Districts: **HB 275**.

Education: **HB 271**

Highways and Traffic Safety: **HR 19**.

Judiciary: **HB 276**.

State Government: **HB 272, HB 273**.

Report of Committees

The Committee on Rules reported **HB 137, HB 1, HB 6, HB 15, HB 18, HB 73, HB 181, HB 183, HB 204, HB 216** and **HJR 13** have been posted for passage in Orders of the Day, January 22, 1974.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 251, HB 252.**
Business Organizations and Professions: **HB 80.**
Education: **HB 105, HB 173, HB 193, HB 200, HB 244.**
Labor and Industry: **HB 70, HB 24, HB 25, HB 150.**

Motions, Petitions and Communications

Representative Hellard moved the adoption of the following Legislative Citation No. 11:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Representative Bobby Richardson and his wife, Elaine, on the arrival in their home of Clay Brents Richardson and extends best wishes to the new Democrat and his parents. (Sponsored by Representative Hellard)

On the roll call the vote was yeas 89-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The Legislative Citation was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HR 14** has been examined and found correctly enrolled. **HR 14** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative Swinford moved that the rules be suspended for action on a Resolution. Agreed.

Representative Swinford moved the adoption of the following **HR 20**:

HR 20, by Representative Swinford: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That a committee of the House of Representatives be appointed to join with a like committee of the Senate to wait upon the Honorable Wendell H. Ford, Governor of the Commonwealth of Kentucky, and that he be hereby invited to address a Joint Session of the General Assembly on Tuesday, January 22, 1974, to present his budget recommendations to the 1974 General Assembly.

HR 20 was adopted.

Representative Swinford moved that absent members who have filed excuses be granted leave of absence. Agreed.

The following members filed excuses: Representatives Allen, E. Brown, McBrayer, McGill.

Representative Holbrook requested that his name be added as a co-sponsor of **HB 100** and **HB 164**.

Representative McBride requested that he be recorded as voting "yea" on the following: **HB 36, HB 87, HB 124**.

Orders of the Day

Representative G. White moved that consideration of **HB 48** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 53** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Karem moved that **HB 53** be placed upon its passage.

On the roll call the vote was yeas 72-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, R. Brown, Burch, Chandler, Clarke, Crupper, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Guenther, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Priddy, Quickert, Reynolds, Richardson, Roberts, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 53 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 53** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 77** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kafoglis moved the adoption of the following Floor Amendment No. 1 to **HB 77**:

"Section 2. KRS 404.010 is amended to read as follows:

(1) Marriage shall give to the husband, during the life of the wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage relation the wife shall hold and own all her estate to her separate and exclusive use, and free from the debts, liabilities or control of her husband.

(2) A married woman shall never be the joint maker of a note or a surety on any bond or obligation of another, other than her husband, without the joinder of her husband with her in making such contract unless her separate estate has been set apart for that purpose by mortgage or other conveyance, *except that this shall not prevent her from voluntarily assuming the obligation created by KRS 186.590, by signing a minor's application as authorized in KRS 186.470.* But a married woman's estate shall be liable for her debts and responsibilities contracted before marriage, and for such contracted after marriage, except as provided in this chapter and in KRS Chapter 392."

Agreed.

Representative Kafoglis moved the adoption of **HB 77** as amended.

On the roll call the vote was yeas 87-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King,

Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 4-DeMarcus, Holbrook, Stephens, Van Horn.

HB 77 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 77** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 90** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Givhan moved that **HB 90** be placed upon its passage.

Representative Schmaedecke moved that **HB 90** be recommitted to the Committee on Judiciary.

On the roll call the vote was yeas 65-Adams, Arnold, Bennett, Beshear, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Graves, Guenther, Hardin, Harris, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kidd, Lewis, Little, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Thomas, Turner, Watkins, Wells, G. White, J. White, Whitfield, Yates. Nays 25-Benson, Blume, Blythe, Donnermeyer, Givhan, Hancock, Hellard, Kafoglis, Karem, Kenton, King, Kleier, Lindsay, Loudon, Mason, Overstreet, Pearman, Paxton, Quickert, Richardson, Stone, Troop, Van Horn, Vincent, Wible.

The motion that **HB 90** be recommitted to the Committee on Judiciary was adopted.

Representative Swinford moved that **HB 110** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Holbrook moved that **HB 110** be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 3-Blandford, Donnermeyer, Richardson.

HB 110 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 110** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 113**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative G. White moved the adoption of the Committee Amendment No. 1 to **HB 113**.

Representative King moved that **HB 113**, with Committee Amendment attached thereto, be recommitted to the Committee on Health and Welfare.

On the roll call the vote was yeas 14-Arnold, Clapp, Dawahare, DeMarcus, Gay, Graves, Hislope, King, Nett, Robinson, Thomas, Vincent, J. White, Whitfield. Nays 71-Adams, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Givhan, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Loudon, Mann, May, Maynard, McBee, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert,

Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Troop, Turner, Van Horn, Wells, G. White, Wible, Yates.

The motion that **HB 113**, with Committee Amendment attached thereto, be recommitted to the Committee on Health and Welfare was rejected.

On the roll call the vote was yeas 61-Bennett, Benson, Beshear, Blandford, Blume, Brewer, Bruce, Burch, Chandler, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Hancock, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Little, Loudon, Mann, Mason, Maynard, McBride, Morgan, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Thomas, Turner, Van Horn, Vincent, Wells, G. White, Wible, Yates. Nays 27-Adams, Arnold, Blythe, R. Brown, Clapp, Dawahare, DeMarcus, Freeman, Gay, Graves, Guenther, Hardin, Hislope, Hurst, King, Lindsay, May, McBee, Nett, O'Brien, Richardson, Robinson, Smith, Stone, Swinford, Troop, Whitfield.

The Committee Amendment No. 1 to **HB 113** was adopted.

Representative G. White moved that **HB 113** as amended be placed upon its passage.

On the roll call the vote was yeas 90-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-King.

HB 113 as amended was passed and the title agreed to.

Representative G. White moved that the vote by which **HB 113** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 119** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Clarke moved that **HB 119** be placed upon its passage.

On the roll call the vote was yeas 76-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bruce, Burch, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Harris, Hinkle, Hislope, Holbrook, Hopkins, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 9-Chandler, DeMarcus, Guenther, Hellard, Hughes, Little, McBride, Reynolds, Robinson.

HB 119 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 119** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Kidd filed Floor Amendment No. 1 to **HB 137**.

Representative Swinford filed Floor Amendment No. 1 to **HB 205**.

Representative Hancock filed Floor Amendment No. 1 to **HB 216**.

Representative Thomas moved that the rules be suspended for announcements regarding votes on bills. Agreed.

Representative Thomas requested that he be recorded as voting "yea" on **HB 110**.

Representative Holloway requested that he be recorded as voting "yea" on **HB 113** and **HB 119**.

In accordance with **HR 20**, the Speaker appointed the following Committee to wait upon the Governor: Representatives McGill, Givhan, Whitfield and Brewer.

Adjournment

Representative Swinford moved that the House adjourn until 2:00 P.M., Tuesday, January 22, 1974.

On the roll call the vote was yeas 86-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

TUESDAY, JANUARY 22, 1974

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives E. Brown and McBrayer.

The following members filed excuses: Representatives E. Brown and McBrayer.

Representative Hughes moved that the reading of the Journal of January 21, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 287, by Representative Wells: AN ACT relating to motor vehicles.

HB 289, by Representative Swinford: AN ACT relating to cities.

HB 290, by Representative Loudon: AN ACT relating to operating expenses of county sheriff's office.

HB 291, by Representative Loudon: AN ACT relating to sheriff's fees.

HB 292, by Representative Clarke: AN ACT relating to the state board of elections.

HB 293, by Representative Clarke: AN ACT relating to petit jurors.

HB 294, by Representative Clarke for the Interim Committee on Appropriations and Revenue: AN ACT relating to registration fees of motor vehicles.

HB 295, by Representatives Roberts and Little: AN ACT relating to the severance tax on coal.

HB 296, by Representative Roberts: AN ACT relating to the Kentucky Employees Retirement System.

HB 297, by Representatives Stone and Vincent: AN ACT relating to state legislative districts.

HB 298, by Representative Hislope: AN ACT relating to state legislative districts.

HB 299, by Representatives Isler, Schmidt, Donnermeyer, Dietz, Schmaedecke, McBee, Thomas, Loudon, Mann, King, Sharpe, Hardin, Brewer, Smith, DeMarcus, Guenthner, Hughes, May and Hislope: AN ACT relating to public health and the regulation of the practice of abortion in the Commonwealth of Kentucky.

HB 300, by Representative Gay: AN ACT relating to standard time in Kentucky.

HB 301, by Representatives Nett, Priddy, Pearman, Stewart, Quickert, Maynard, Donnermeyer, Mann and Kleier: AN ACT relating to insurance.

HR 21, by Representatives Guenthner, Holloway, Hislope, and Reynolds: A RESOLUTION to commend Gordon Sinclair for his editorial, "America," and to cause excerpted portions of his editorial to be read aloud before the House.

HR 22, by Representatives Reynolds and Schmidt: A RESOLUTION directing the Legislative Research Commission to study public transportation needs in both rural and urban communities throughout the Commonwealth and methods of funding to meet such needs.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: **HB 286**.

Counties and Special Districts: **HB 284**.

Education: **HB 279**.

Elections and Constitutional Amendments: **HB 277, HB 278, HB 283**.

Judiciary: **HB 282, HB 285**.

Labor and Industry: **HB 280, HB 281**.

Report on Enrolled Bills

HR 14 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 37**.

Letter dated January 21, 1974, from Clerk of the Senate denying request of House on January 17, 1974 to return **HB 31**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Banking and Insurance: **HB 248.**

Agriculture and Natural Resources: **HB 26, HB 34, HB 67, HB 72, HB 19, HB 249.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Health and Welfare: **HB 84, HB 85.**

Agriculture and Natural Resources: **HB 16.**

Report of Committees

The Committee on Rules reported **HB 11, HB 71, HB 52** with Committee Amendment attached thereto, **HB 148, HB 75,** and **HB 205** with Floor Amendment attached thereto, have been posted for passage in Orders of the Day, January 23, 1974.

The Committee on Rules reported **HB 42,** with Committee Amendments attached thereto, has been recommitted to the Committee on Judiciary for study of legal implications.

The Committee on Elections and Constitutional Amendments reported **HB 23,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 125.135 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. No person, other than the election officers and challengers, shall remain within *300 feet* [fifty (50) feet] of the voting machines, except when voting.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering on election day within any polling place or within *300 feet* [fifty (50) feet] thereof.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 125.140 (2).

The Committee Substitute for **HB 23** is as follows:

HB 23, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 125.135 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. [No person, other than the election officers and challengers, shall remain within fifty (50) feet of the voting machines, except when voting.]

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering *at the polling place* on election day *unless the fiscal court of that county specifically authorizes electioneering and establishes the distance from the polling place where such electioneering may be carried on* [within any polling place or within fifty (50) feet thereof].

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 125.140 (2).

The Committee on Appropriations and Revenue reported **HB 159** and **HB 222**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 159, AN ACT relating to real estate transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument or writing (other than a will and other than a lease or easement), regardless of where made, executed or delivered whereby any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred or assigned.

(b) "Value" means

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed is imposed at the rate of fifty cents (50) for each \$500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect such amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110 (1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain 5 per cent as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The department of revenue may prescribe such rules and regulations as it may deem necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to such deed shall, upon conviction, be fined \$50 for each offense.

(7) Any person who shall present for recording any deed which contains a false statement of the full actual consideration, or who shall execute an affidavit which contains a false statement of the full actual consideration or, in the case of a gift, the full estimated value of the property, shall, upon conviction, be subject to a fine of not more than \$100 or to imprisonment for not more than thirty days or to both such fine and imprisonment for each offense.

(8) The tax imposed by this section shall not apply to a transfer of title:

- (a) Recorded prior to March 27, 1968;
- (b) [By] *To (in the event of a deed of gift or deed with nominal consideration) or from the United States of America, this state, any city or county within this state, of any instrumentality, agency, or subdivision hereof;*
- (c) Solely in order to provide of release security for a debt or obligation;
- (d) Which confirms or corrects a deed previously recorded;
- (e) Between husband and wife, or parent and child, with only nominal consideration therefor;
- (f) On sale for delinquent taxes or assessments;
- (g) On partition;
- (h) Pursuant to mergers of corporations;
- (i) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;
- (j) Under a foreclosure proceeding.

HB 222, AN ACT relating to bills and pre-filed bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 6 is created to read as follows:

(1) Any bill introduced which may have an effect on state or local revenues, either gain or loss, or which may cause the expenditure of state or local funds, shall be referred to the Legislative Research Commission for fiscal analysis before printing.

(2) The Legislative Research Commission shall determine the fiscal effects of such bill, if possible, and report its findings to the chief clerk of the house of origin within two legislative days. The Department of Revenue and the Department of Finance shall determine or assist in the determination of the fiscal effects of such bill at the request of the Legislative Research Commission.

(3) The chief clerk of the house of origin shall cause to have printed on the bill a summary of its fiscal effects, including the dollar amount of revenue gain or loss, or expense, if determinable, the frequency of effect and the governmental unit that will bear the incidence of the effect.

(4) Bills pre-filed with the Legislative Research Commission shall have their fiscal effects, if any, determined as soon as practicable after pre-filing. A summary of the fiscal effects shall be made a part of the pre-filed bill.

The Committee Amendment to **HB 222** is as follows:

Amend printed copy of House Bill 222 page 1, line 7 by deleting the words "before printing";

Page 1, line 9, by adding the word "probable" to follow the word "the", and by adding the words, "including the costs of administering any program," to precede the word "if";

Page 1, line 11, by deleting the words "two legislative" and inserting in lieu thereof the word "seven";

Page 1, line 12, by inserting a comma after the word "determine";

Page 1, line 13, by inserting a comma after the word "of" and before the word "the";

Page 1, line 17, by deleting the words "printed on" and inserting in lieu thereof the words "attached to";

Page 2, line 5, by deleting the words "made a part of" and inserting in lieu thereof the words "attached to";

Page 2, by adding a new subsection, beginning with line 7, to read as follows:

(5) Whereas, legislation proposed in the 1974 Regular Session of the General Assembly cannot be adequately evaluated without knowledge of its fiscal effects, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Business Organizations and Professions reported **HB 80** with Committee Amendment attached thereto, **HB 164**, and **HB 174** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 80, AN ACT relating to the Kentucky Employees Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.700, unless the context otherwise requires:

- (1) "System" means the Kentucky employees retirement system created by KRS 61.510 to 61.700;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.700, the members, officers and employees of the general assembly shall be deemed to be a department;
- (4) "Examiner" means the medical examiner or examiners as provided in KRS 61.655;
- (5) "Employee" means the members, officers and employees of the general assembly and every regular full-time appointed or elective officer or employee of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.700;
- (6) "Employer" means a department or any authority of such department having the power to appoint or select an employee in such department, including the senate and the house of representatives;
- (7) "State" means the commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined herein;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, (except that for members, officers and employees of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid. Each member, officer and employee of the general assembly shall be credited with a month of service for each month he occupies such position during a legislative biennium;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employees of the general assembly this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; Provided, however, That each member, officer and employee of the general assembly shall be credited with a month of service for each month he occupied such position during a legislative biennium;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer [], except that for members of the General Assembly it shall mean an assumed salary of \$15,000 per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money.
- (14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;
- (15) "Retirement allowance" means the retirement payments to which a member is entitled;
- (16) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board;

(17) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.510 to 61.700;

(18) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(19) "Officers and employees of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums; and

(20) "Regular full-time positions" as used in KRS 61.150(5) shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty.

Section 2. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths percent (1.6%) of final compensation multiplied by the number of years of service credit, *except that*: [provided that the annual normal retirement allowance for each year a member has served as a member of the General Assembly shall not be less than \$110.]

(a) *The annual normal retirement allowance for members of the General Assembly who have eight or more years of service prior to January 1, 1974 and who serve in the General Assembly during calendar years 1974 and 1975 shall not be less than \$240 multiplied by the number of years of service as a member of the General Assembly;*

(b) *The annual normal retirement allowance for members of the General Assembly who have fewer than eight years of service prior to January 1, 1974, shall be as prescribed in Chapter 116, Section 36(1), Acts of the 1972 General Assembly.*

(c) The annual normal retirement allowance for a member with ten (10) or more years of service, at least one (1) of which is current service, shall not be less than \$512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement check.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25) greater or less than the amount of the initial retirement check.

Section 3. To implement the provisions of this Act, there is hereby appropriated to the Kentucky Employees Retirement System for the fiscal year 1975-76 the sum of \$251,003.

The Committee Amendment to **HB 80** is as follows:

Amend printed copy of House Bill 80 page 8, following line 3 by adding after line 3 the following:

"Section 4. In order that General Assembly membership in the Kentucky Employees' Retirement System can be put on a sound actuarial basis starting with the 1974 legislative session, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

HB 164, AN ACT relating to Optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than thirty dollars (\$30.00). Not later than February 15 of each year the secretary-treasurer shall notify by mail, all optometrists of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the board and the optometrist shall furnish the information required by such form. *As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The Board is further authorized to treat funds set aside for the purpose of continuing education as State funds for the purpose of accepting any funds made available under Federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the State. The board shall be allowed to waive the continuing education requirement in cases of certified illness or undue hardship.*

(2) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

HB 174, AN ACT relating to moral character and statutory professional licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 344 is created to read as follows:

The provisions of this act shall govern the denial of licenses, certificates, registrations, or other means to engage in a business or profession regulated by state law or regulation, on the grounds of a lack of good moral character and the ground of knowingly making a false statement of fact required to be revealed in an application for such licenses, certificates, or registrations, and shall govern the suspension or revocation of such licenses, certificates, or registrations on the grounds of conviction of a crime.

Section 2. A new section of KRS Chapter 344 is created to read as follows:

As used in this act, "board" includes "bureau," "commission," "department," "division," and "agency."

Section 3. A new section of KRS Chapter 344 is created to read as follows:

A person may be denied the status of a licensee on the grounds that he does not possess good moral character, as specified in Section 4 of this act.

Section 4. A new section of KRS Chapter 344 is created to read as follows:

A person possesses good moral character unless he has done any of the following:

(a) He has done any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of his license. No act shall be grounds for denial, however, which does not have a substantial relationship to the functions and responsibilities of the licensed business or profession.

(b) He had done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another.

Section 5. A new section of KRS Chapter 344 is created to read as follows:

Each board, when considering the denial of a license under Section 4 of this act, shall take into account all competent evidence of rehabilitation furnished by the applicant.

Section 6. A new section of KRS Chapter 344 is created to read as follows:

A person may be denied a license under this act on the grounds that he has knowingly made any false statement of fact which is required to be revealed in his application for license.

Section 7. A new section of KRS Chapter 344 is created to read as follows:

No person applying for licensure under this act shall be required to submit to any licensing board any attestation by other persons to his good moral character. This section shall not apply to any person who has been denied a license by any board on the basis that he does not possess good moral character, and who has reapplied for the license that he was previously denied.

Section 8. A new section of KRS Chapter 344 is created to read as follows:

Upon denial of an application for a license, under this chapter the board shall:

(a) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his application or otherwise. Service by mail is complete on the date of mailing.

Section 9. A new section of KRS Chapter 344 is created to read as follows:

Where the board has denied an application for a license under this act it shall, in its decision, or in its notice under subdivision (a) of Section 8 of this act, inform the applicant of the following:

(a) The earliest date on which the applicant may reapply for a license.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (a) of Section 8 of this act, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 11 of this act.

Section 10. A new section of KRS Chapter 344 is created to read as follows:

If a hearing is requested by the applicant, the board shall conduct such hearing as soon thereafter as is practicable.

Section 11. A new section of KRS Chapter 344 is created to read as follows:

Within thirty days after final action by the board following a hearing, an aggrieved party may petition Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the board's order except for errors of law, or upon a finding that the board's action was arbitrary or capricious.

Section 12. A new section of KRS Chapter 344 is created to read as follows:

Each board under the provisions of this act shall develop criteria to evaluate the rehabilitation of a person denied a license by the board on the ground of lack of good moral character.

Section 13. A new section of KRS Chapter 344 is created to read as follows:

Each board, when considering the suspension or revocation of a license under this act on the ground that the licensee has been convicted of a crime, shall take into account the relationship of the crime to the licensed activity.

Section 14. A new section of KRS Chapter 344 is created to read as follows:

Upon revocation of a license by a board on the ground that the licensee has been convicted of a crime, the board shall, in its decision, give to the ex-licensee, a copy of the criteria relating to rehabilitation formulated under Section 14 of this act.

Section 15. A new section of KRS Chapter 344 is created to read as follows:

Each board under the provisions of this act shall develop criteria to evaluate the rehabilitation of a person whose license has been suspended or revoked on the ground of conviction of a crime.

The Committee on Cities reported **HB 39** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to the salaries of city mayors and commissioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 89.480 is amended to read as follows:

(1) In a city of the first class which has voted to be organized and governed under the city manager form of government, pursuant to the provisions of KRS 89.410 and KRS 83.670 the mayor and the commissioners shall receive an annual salary to be fixed by the board of aldermen at the time of its decision to be organized and governed under the city manager form of government.

(2) In a city of the second class which has been reclassified as a city of the first class and which has been governed under the city manager form of government prior to reclassification and has retained the city manager form of government, the mayor shall receive an annual salary of \$12,000 and each commissioner shall receive an annual salary of \$9,000.

(3) In cities of the second class the mayor shall receive an annual salary of not more than \$7,200, and each commissioner shall receive an annual salary of not more than \$6,000, to be fixed by the city legislative body.

(4) In cities of the third and fourth classes the mayor shall receive an annual salary of not more than \$4,000 [\$750], and each commissioner shall receive an annual salary of not more than \$2,400 [\$500].

(5) In cities of the third and fourth classes the board of commissioners may reduce the annual salary of the mayor or the commissioners to an amount not less than one dollar.

Section 2. A new section of KRS Chapter 89 is created to read as follows:

In order to equate current compensation for services of city-elected officials with the purchasing power of the dollar and to keep abreast of such compensation's initial value and purchasing power, the city legislative body may, on or before September 1, 1974, adjust within the limits of Section 1 of this act, the compensation of the mayor and commissioners.

The Committee on Elections and Constitutional Amendments reported **HB 61**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 61, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 141 is created to read as follows:

(1) In the case of an individual there shall be allowed against the state personal tax either a tax credit or a tax deduction for contributions made to political candidates or political parties. The contribution must be to an organization recognized under KRS 119.010 as a political party for the purpose of nominating candidates in an election for any elective office in the state or to a candidate seeking elective office.

(2) The credit against taxes for political contributions shall equal the lesser amount of the following:

(a) One-half the amount of the contribution not exceeding \$25 for an individual filing a separate tax return, or \$50 for a joint tax return; or

(b) The tax liability of the taxpayer.

(3) For tax deduction purposes, no contribution covered under this Act shall exceed \$50 for an individual filing a separate tax return or \$100 for a joint return.

(4) Tax claims for tax credit shall be substantiated by submission, with the tax return, of official receipts of the candidates or the political party to whom contribution was made. Canceled checks or a copy of such may be used in lieu of an official receipt.

The Committee Amendment to **HB 61** is as follows:

Amend printed copy of House Bill 61 page 1, line 4 delete "either a tax"

page 1, line 5 delete "credit or"

page 1, delete lines 11 through 17

page 1, line 18 delete "(3)" inserting in lieu thereof "(2)"

page 1, line 18 delete ","

page 1, line 19 delete "\$50 for an individual"

page 1, line 20 delete "filing a separate tax return or" and "joint"

page 2 delete lines 1 through 5

The Committee on Education reported **HB 105** with Committee Substitute attached thereto, **HB 86**, **HB 173** with Committee Amendment attached thereto, and **HB 244** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 105, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.293 is amended to read as follows:

(1) There is hereby recognized as established and maintained a state college in this commonwealth to be designated and known as Northern Kentucky State College, the location of which shall be determined by the council on public higher education on the advice of a group of twelve (12) persons from the northern section of the state, to be appointed by the governor, not more than six (6) of whom shall belong to the same political party.

[(2) All the provisions of KRS chapter 164, with the exception of subsection (2) of KRS 164.295 applying to the state universities shall apply to Northern Kentucky State College.]

The Committee Substitute for **HB 105** is as follows:

HB 105, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.293 is amended to read as follows:

(1) There is hereby recognized as established and maintained a state college in this commonwealth to be designated and known as Northern Kentucky State College, the location of which shall be determined by the council on public higher education on the advice of a group of twelve (12) persons from the northern section of the state, to be appointed by the governor, not more than six (6) of whom shall belong to the same political party.

(2) All the provisions of KRS Chapter 164, [with the exception of subsection (2) of KRS 164.295] applying to the state universities shall apply to Northern Kentucky State College.

HB 86, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.135 is amended to read as follows:

As used in this section, unless the context otherwise requires:

(1) "Out-of-district children," means those children of school age resident in a state-operated institution or state-operated day treatment center who were placed therein from school districts other than the one in which the institution or day treatment center is located.

(2) "Current costs and expenses," means all expenditures, other than for capital outlay and debt service, which, in the final result, are an actual charge on the tax revenue of the school district for the furnishing of school services to out-of-district children. Among other things, "current costs and expenses" does not include those expenditures for which the school district receives reimbursement from any source, other than from the state under the provisions of this section.

(3) Any county or independent school district which provides elementary or secondary school services to out-of-district children shall be reimbursed by the department of education, out of funds not required by law to be expended for other purposes or in any other manner, in an amount equal to all current costs and expenses of the district for furnishing such services in excess of any per capita distribution received from the common school fund on behalf of the children. The school services furnished to out-of-district children shall be substantially equal to those furnished to other school children of the district.

(4) The school district shall make to the superintendent of public instruction such reports as he requires concerning school services for out-of-district children, and shall file with the state agency operating the institution *or day treatment center* in which the children are resident a copy of the annual report made to the superintendent of public instruction.

(5) The school district, at the end of each school year, shall make application to the superintendent of public instruction for the reimbursement due on behalf of school services furnished during the year just ended. After approving the application, the superintendent of public instruction shall notify the commissioner of finance *and administration* who shall cause a warrant, in the appropriate amount, to be drawn in favor of the school district.

(6) *Notwithstanding the provisions of any other statute, school districts furnishing services to out-of-district children may operate a year-round program for such children and may be compensated on a year-round basis.*

HB 173, AN ACT relating to County Employees' Retirement System.

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizes the need for financial security upon retirement for non-certified employees of boards of education and the reasonable cost of participation in CERS; and

WHEREAS, only thirty-three of the one hundred and eighty-nine school boards in this Commonwealth presently participate in the county employees' retirement system; and

WHEREAS, all non-certified school board employees should be given the opportunity to elect to participate in the retirement system so that they will be financially secure upon their retirement,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.880, unless the context otherwise requires:

(1) "System" means the county-employees' retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, *including school boards*, participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5)[(4)] "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(6)[(5)] "Employee" means every regular full-time appointed or elective officer or employee of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.880;

(7)[(6)] "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employee to office or employment in such county.

(8)[(7)] "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9)[(8)] "Service" means the total of current service and prior service as defined herein;

(10)[(9)] "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid;

(11)[(10)] "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An

employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12)[(11)] "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13)[(12)] "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14)[(13)] "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15)[(14)] "Retirement allowance" means the retirement payments to which a member is entitled;

(16)[(15)] "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board;

(17)[(16)] "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.880;

(18)[(17)] "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(19)[(18)] "Agency reporting official" means the person designated by the participating agency to file reports with the county employees' retirement system; and

(20)[(19)] "Regular full-time positions" as used in subsection (5) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty.

Section 2. KRS 78.530 is amended to read as follows:

(1) Each county[, and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) Every school board not participating on the effective date of this Act shall enact a resolution of participation no later than July 1, 1976.

(4)[(3)] In counties not participating in the system in accordance with subsection (1) of this section, the county fiscal court, upon request of either the clerk of the county court or the sheriff of the county, shall enter an appropriate order authorizing the participation in the system, said order to be duly recorded in the records of the fiscal court. Provided, however, anything in KRS 78.510 to 78.880 to the contrary notwithstanding, the fiscal court shall not be liable for "normal contribution" or "past service liability contribution" with reference to the county court clerk and his employees and deputies and the sheriff and his employees and deputies, and further that the "normal contribution" and "past service liability contribution" shall be considered office expenditures and shall be paid by the county court clerk and by the sheriff respectively.

(5)[(4)] The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals established in accordance with KRS 216.010 and 216.080 and any other semi-independent agency. Each such excluded agency may participate in the system as a separate agency.

(6)[(5)] An agency whose participation in the county employees' retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the county employees' retirement system.

The Committee Amendment to **HB 173** is as follows:

Amend printed copy of House Bill 173 page 5, line 25 by adding *[.] except in case of school bus drivers for school boards in which event the annual or fiscal year average shall be 80 hours of work per month in the performance of duty."*

HB 244, AN ACT relating to smoking on school premises.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.050 is amended to read as follows:

Any person, except adult employes of the school system who smoke in a room on the school premises designated by the superintendent or principal for the purpose, who smokes a cigarette in any school building or any part of any building used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, *except in areas designated by the superintendent or principal for the purpose*, shall be fined not less than \$1.00 nor more than \$5.00.

The Committee on Elections and Constitutional Amendments reported **HB 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 125 is created to read as follows:

(1) Every voting precinct on the day upon which any election is held shall, during voting hours, display an American flag of dimensions of no less than three feet wide by four feet long, which shall be firmly attached to the entrance of the voting precinct so that it will be readily visible to the general public.

(2) The precinct sheriff shall attach the American flag to the entrance of the voting precinct upon the opening of the polls on the election day and shall remove the same upon the closing of the polls.

(3) The fiscal court of every county shall purchase out of its general fund sufficient American flags for every voting precinct in that county.

The Committee on Labor and Industry reported **HB 24**, **HB 25** with Committee Amendment attached thereto, and **HB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 24, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.096 is amended to read as follows:

As used in this chapter unless the context clearly requires otherwise:

(1) "Rate of insured unemployment" means the percentage derived by dividing:

(a) The average weekly number of workers filing claims in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the commissioner on the basis of his report to the U.S. Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period. Such computations shall be made by the commissioner, in accordance with regulations prescribed by the U.S. Secretary of Labor.

(2) "Regular benefits" means benefits payable to a worker under this chapter or under an unemployment compensation law of any other state (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits *and additional benefits*.

(3) "Extended benefits" means benefits (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to a worker under the provisions of KRS 341.700 to 341.740 for weeks of unemployment in his eligibility period.

(4) "*Additional benefits*" means *benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.*

(5)[(4)] "Eligibility period" of a worker means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(6)[(5)] "Exhaustee" means a worker who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employes and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(c) Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the U.S. Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

HB 25, AN ACT relating to Unemployment Insurance Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.110 is amended to read as follows:

(1) In the Department of Economic Security there shall be an Unemployment Insurance Commission composed of the Commissioner of Economic Security and two associate commissioners appointed by the Governor.

(2) The commissioner shall represent the state and the public and shall be chairman of the commission. One associate commissioner shall be appointed as a representative of labor and one as a representative of employers. The chairman and one other member of the commission shall constitute a quorum.

(3) The associate commissioners shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty years of age.

(4) The terms of each associate commissioner shall be for four years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the associate commissioners shall be *\$100 per day, not to exceed a total of \$4,800 per annum, plus necessary expenses while engaged in the discharge of their official duties.*

The Committee Amendment to **HB 25** is as follows:

Amend printed copy of House Bill 25 page 2, lines 3, 4, 5, and 6 by deleting lines 3, 4, 5 and 6 in their entirety, inserting in lieu of:

"(5) *For time spent performing their official duties*, the compensation of the associate commissioners shall be \$4,800 per annum."

HB 70, AN ACT relating to deductions from wages of employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.070 is amended to read as follows:

All employers [who employ ten or more and pay their employees by check or otherwise,] making deductions from the salaries and wages due [said] employees, shall state specifically the amount for which the deductions are made, and each such employer at the time of payment of salary or wage to each employee shall furnish the employee a statement giving the amount of each deduction and the [general] purpose for which the deduction is made.

Motions, Petitions and Communications

Representative Guenther moved that the rules be suspended for action on a resolution. Agreed.

Representative Guenther moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION to commend Gordon Sinclair for his editorial, "America," and to cause excerpted portions of his editorial to be read aloud before the House.

WHEREAS, our great nation has suffered at the hands of those who doubt her greatness, at home and abroad; and

WHEREAS, we most heartily desire to affirm our faith in her greatness and support her strength; and

WHEREAS, Canadian broadcaster Gordon Sinclair has eloquently testified to the selflessness, generosity and strength of our nation at times of other nation's trials;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That we shall commend Gordon Sinclair for his editorial, "America."

Section 2. That the following portion of his editorial be read aloud before this assembled body:

"This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

"Germany, Japan and, to the lesser extent, Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

"When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

"I was there. I saw it.

"When distant cities are hit by earthquakes, it is the United States that hurries in to help. This Spring, 59 American communities (were) flattened by tornadoes. Nobody helped.

"The Marshall Plan and the Truman policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

"I'd like to see just one of these countries that is gloating over the erosion of the United States dollar build its own airplanes.

"Come on, let's hear it.

"Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

"If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

"Why does no other land on earth even consider putting a man or woman on the moon?

"You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

"You talk about American technocracy, and you find men on the moon--not once but several times--and safely home again.

"You talk about scandals, and the Americans put theirs right in the store window for everyone to look at.

"Even their draft-dodgers are not pursued and hounded. They are here on our streets and most of them--unless they are breaking Canadian laws, are getting American dollars from Ma and Pa at home to spend here.

"When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

"I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

"I don't think there was outside help even during the San Francisco earthquake.

"Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high.

Section 3. That the clerk of the House of Representatives be, and hereby is, directed to send a copy of this resolution to Gordon Sinclair at Toronto, Canada.

Agreed.

The Speaker announced a call of the roll would be taken to show co-sponsors of **HR 21**.

The following members voted to co-sponsor **HR 21**: Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McGill, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates.

Representative Swinford moved that absent members who have filed excuses be granted leave of absence. Agreed.

Representative Schmidt moved that a roll call be taken to show co-sponsors of **HB 299**.

The following members voted to co-sponsor **HB 299**: Allen, DeMarcus, Donnermeyer, Gay, Guenther, Hislope, Hughes, Isler, Mann, Schmaedecke, Schmidt, Siemens, Thomas, VanHorn, Watkins, Yates.

Representatives Reynolds and Rattliff requested that their names be added as co-sponsors of **HB 147**.

Orders of the Day

Representative Swinford moved that the rules be suspended for the purpose of considering **HJR 13**. Agreed.

Representative Swinford moved that **HJR 13** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Swinford moved that **HJR 13** be placed upon its passage.

On the roll call the vote was yeas 97-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays-0.

HJR 13 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HJR 13** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 48** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative G. White moved that **HB 48** be placed upon its passage.

Representative Swinford moved that consideration of **HB 48** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 64-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Graves, Guenther, Hardin, Harris, Hellard, Hinkle, Hislope, Hopkins, Kafoglis, Kidd, King, Loudon, Mann, Mason, McBee, McBride, McGill, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Vincent, Watkins, J. White, Wible, Yates. Nays 14-Burch, Hancock, Head, Holbrook, Karem, Kenton, Lindsay, May, Nett, Robinson, Turner, VanHorn, Wells, G. White.

The motion that consideration of **HB 48** be deferred and that it retain its position in Orders of the Day was adopted.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session.

Representative Swinford moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, and the members of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Julian M. Carroll, Lieutenant Governor and President of the Senate, assumed the Chair.

Representative Swinford moved that the House and Senate resolve into Joint Session for the purpose of hearing the presentation of budget recommendations by the Honorable Wendell H. Ford, Governor of Kentucky. Agreed.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

Representative Swinford moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

The Committee of the House, appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session, appeared with the Governor.

Lieutenant Governor Julian M. Carroll introduced the Honorable Wendell H. Ford, Governor of Kentucky.

Governor Ford addressed the Joint Session of the General Assembly, as follows:

LT. GOVERNOR CARROLL

MR. SPEAKER

DISTINGUISHED MEMBERS OF THE GENERAL ASSEMBLY

Included with your budget document is a letter of transmittal, relating to a new format and other efforts providing the best accountability ever, of state government meeting its responsibilities.

The Executive branch has tried to work as closely as possible with the Legislature, hopefully easing your burdens during a short, but most demanding period. We have endeavored to keep you informed. Whatever additional assistance you desire throughout this session will be immediately available. For if priorities are met, your line of sight must not be restricted while examining statewide needs.

The citizens of Kentucky have every right to expect wisdom, compassion and beneficial direction from those who allocate their tax dollars. Funds supporting state services do not belong to either you or me. They are the necessary contributions of working Kentuckians who await our complete and proper management.

The budget plan I offer goes far beyond normal continuation of current state services. Continuation stabilizes the present, but wherever possible, we must drive head-on to meet urgent public needs, both now and for the future, with new and expanded programs. Our challenge is to act, rather than merely drift along in complacency. This budget is almost a billion dollars larger than the previous one.

It does not require one penny more in new or increased taxes.

Even at a \$4.4 billion level, the budget is in line with conservative revenue estimates, taking into account the energy crisis and other expected national economic trends.

We were especially conservative two years ago in estimating revenue and projecting a surplus. An expected surplus of \$80 million in state funds for the first biennium clearly refutes those who said it couldn't be done. I have the utmost confidence in our estimates for the 1974-76 biennium.

When speaking of state government cost savings, you will be pleased to know that up to \$27 million less will be spent than was appropriated two years ago.

Let me add an important point. There may be those who believe that all of the new programs we can achieve these next two years come only because of federal revenue sharing. The truth, is that revenue sharing accounts for less than four percent of the budget. The truth, is that we must compensate for curtailments of various federal programs and prior funds impoundments.

While revenue sharing for non-recurring expenses helps, our capacity to do far more without any tax increase is due to several factors: The state's economic growth, savings in the cost of state government, the willingness of Kentuckians to work hard, and the remarkable record of the 1972 General Assembly.

Federal revenue sharing money for the coming biennium will grow by \$10 million because we didn't rush out and recklessly spend it. . . . we made it work for the citizens of Kentucky through investment, thus giving you a better opportunity of judgment in light of changing national and state conditions.

We have continued all existing programs presently in force with state funds. Due to inflation, the cost is much higher today than 24 months ago, and even for agencies where there is no expansion, the increase is substantial. Otherwise, state government would have to curtail services. I don't believe anyone in this chamber, and especially the general public, wants state government in such a position.

Beyond meeting this particular goal, we have established a long list of new and expanded programs above continuation. These are top priorities in fulfilling the expectations of Kentuckians.

To strengthen our foundation, I have included a 4.5% extension to make personnel classification more competitive, and a 5.5%, per year, merit increase. These funds provide an average 15.5% salary adjustment during the biennium for qualified employees. If state government is to attract, and retain, worthy employees, and if the public is to receive the best value for tax dollars paid, we can't remain as a training ground for someone else. When other governmental units, as well as business and industry, promote the rapid exit of qualified state employees because pay is better elsewhere, government's ability to function is seriously threatened. This has been the case too many years, and it's time we wake up to the fact.

On another matter, I made public commitments on three major items at earlier dates, and have included them in the budget. They are the University of Louisville Medical complex, support for the Lexington Civic Center, and matching funds for an institute to research biological aspects of aging. There have been a few

other public announcements, though not made by me' They were pretty accurate, and you'll find most of them in the budget too. Frankly, I started to entitle this address the "worst kept secret in the history of Kentucky." But, I am sure when we conclude you will find a great number of new programs which will make tomorrow's horizon very bright indeed.

Now, let us turn to the future as we examine a new and expanded service delivery system for state government. . . a system responsive to every man, woman and child in our great state.

HUMAN RESOURCES

In my 1972 budget message, I pledged that the operational cost of government would show the beginning of a downward trend in the percentage of general fund dollars. I am prepared to demonstrate the fulfillment of that commitment, not just in some small area of government, but in the second most costly function, and largest in terms of personnel.

I am extremely pleased to report that the recommended general fund increase the next two fiscal years is the lowest percentage appropriated since 1956. Yet for the first time in memory, it provides 100% funding of the entire budget request because of reorganization and innovation.

Many expansions are included in the recommended Human Resources budget, to improve the quality of health, well-being, and living conditions for our people--this is what government is all about.

We will improve the quality of life of the aged and handicapped.

We are adding \$7.6 million each year to support the 20% of Kentucky's aged, blind and disabled who will no longer be eligible for federal aid since Washington's definition of aged, blind and disabled is more harsh than Kentucky's. They have quit. We haven't. In a time of unequalled corporate profits, I believe it is tragic to abandon the aged, the blind and the disabled.

While we have made tremendous strides in medical facilities and professional care, these advancements are useless to the seriously ill or critically injured if they can't get to a hospital in time. I have, therefore, provided \$1.8 million new dollars in the Emergency Medical Services program for purchase of vehicles, communications equipment and basic emergency medical training.

Families with dependent children, where cries of hunger are loud, illness is commonplace, and life is bleak, can expect \$3.1 million more in state funds the first year and \$7.1 million the second to improve living conditions.

The new Children's Treatment Service building will soon be completed at Central State Hospital. This budget provides \$438,000 for staffing. In addition, 312,000 new dollars will be expended for day care.

This budget provides service to 8,000 more senior citizens. It responds to requests from small communities and rural schools for prevention of dental disorders. We are also willing to spend a quarter of a million dollars more to assist our elderly citizens at home rather than put them in institutions.

Expanded services in Human Resources call for the establishment of 12 additional Home Health Agencies, new development and improvement for the state's 15 Regional Health Planning Councils, and replacement of funds taken away by the federal government--\$2.5 million--to maintain family and children services, once available through Title 4-A of the Social Security Act, but no more because of federal irresponsibility.

Beyond all of these, and other new programs, I propose over 47 million new dollars to allow for construction and renovation projects.

Included are \$1.5 million for the construction of a Western Kentucky Reception Center to serve youngsters committed as public offenders from west Kentucky and Louisville.

A visit to our mental health and mental retardation facilities, as many of you, and as I have made, shows in no uncertain terms how time and use have taken their toll. Immediate renovations and improvements must be started. I, therefore, recommend nearly \$8 million to zero in on deficiencies which

have plagued these facilities for so many years. I also recommend additions and modifications to Oakwood, not completed during initial construction.

As we concentrate on mental health and mental retardation facilities, I have a special request. Perhaps the most significant new thrust in reorganization of Human Resources is our ability, for the first time, to convert several state psychiatric hospitals and mental retardation facilities into certified intermediate care facilities. By doing so, we will prevent an expenditure of \$13 million which otherwise would be necessary from the general fund to maintain current service levels. This new approach will make them eligible for previously untapped reimbursements for services through federal medical assistance programs and private insurance. This is proof positive that through innovation, imagination and hard work we can take better care of our citizens--better care of our citizens with fewer tax dollars. Your concurrence is urged.

One other item I want to note: My request for \$31 million dollars to build a medical complex at the University of Louisville is not only for education, but to satisfy health and medical needs of all Kentuckians. I have also included \$3 million in the Council on Public Higher Education budget to initiate five regional health centers, which will better distribute health manpower, assuring treatment in all areas of the state. Both appear in the Education budget, but we should recognize the human resource/medical companionship these offer. Our purpose is to bring medical services and people closer together--in other words, making them accessible to the citizens you represent.

JUSTICE

Like all Americans, Kentuckians have a special concern for life, liberty and property. I, therefore, recommend these new programs.

Increasing the State Police force by 100 Troopers in the biennium.

Providing State Policemen an additional 10% salary increase each year in order to retain highly trained and competent officers. This is above the annual 5% increment.

Updating the State Police radio network.

State training for approximately 120 additional local police officers each year--above and beyond normal growth patterns.

State training for all law enforcement communications personnel and all local jailers. Additional training for state correctional and judicial officers.

What we have done in the last two years, and what is proposed for the coming biennium can be summed up with a statement to the criminal elements from both you and me:

Get out of Kentucky and stay out'

The tougher we make it on the scum of dope peddlers, the stink of organized crime and the many other elements who prey on innocent and honest citizens, the better life will be in this state.

Other new programs would implement pre-sentence investigations and expand services in shock probation. It is time to implement work-release and study-release in the state Corrections System.

I also recommend 3 additional Circuit Judges to counteract increasing workloads, and the funding of \$1.5 million of the Judicial Retirement System's prior service liability. Three additional Court of Appeals Commissioners are necessary if a backlog of 1,000 cases now in our highest court is reduced.

As you recall, Kentucky began a unique training program for local police officers last year, after months of debate with the Federal Pay Board and Cost of Living Council. No other program of its kind is in America. Available to nearly 3,000 local policemen who qualify through required education, the plan supplements their salaries if they meet strict standards. Limited federal support mandates our expansion of funding to 75% of the total. Without the recommended \$9.3 million for the biennium, Kentucky will turn its back on one of the most worthwhile assaults against crime we have ever achieved. Its success is found throughout the Commonwealth with trained police officers rather than individuals handed a badge, pistol and

life-or-death assignment. We have a long way to do in the battle against crime, and this program is essential'

In addition to the proposed new and expanded programs, the Justice field requires over \$30 million in capital construction.

Unless we decide to give our Correctional System the proper tools for rehabilitation, for separation of prisoners and for specialized treatment, we will continue in the dark ages with overcrowded mass custody centers.

The old ways aren't working. They are expensive and constantly endanger the lives of Correctional employees. It's time that we enter the 20th Century by constructing a new maximum security prison for which I request \$15 million.

Prisoner cost is expensive. The expense has mounted for decades because of a revolving-door approach which is no more than putting them in, letting them out and putting them in again. A rehabilitated prisoner becomes a taxpayer rather than a tax drainer. Remodeling existing institutions would cost far more than building the specialized prison. I realize there are some who cannot be rehabilitated. These would be separated from those who can. Even with advancements made, today's structures are inadequate, but with your approval we will be able to make "corrections" what the word stands for.

I also recommend construction of a farm dormitory separated from the main institution at LaGrange where work incentive becomes paramount. This plus other maintenance projects at our Correctional institutions would total \$4.5 million. . . a lot of money. It should have been spent during the last 15 years, but it wasn't. If we don't meet a long-neglected responsibility, who will?

Other recommendations are for a new Justice building to bring all elements of the Department under one roof. This frees, for instance, vitally needed State Police space now unavailable for expanded training. There is a serious need for two new State Police Post Headquarters as well as renovations at several other posts. Funds are provided to accomplish each.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Three years ago, when the environmental protection movement was reaching full bloom, Congress began putting final touches on landmark legislation to clean up our nation's air, water and land. It didn't last long as federal impoundments signaled retreat. Today, in the face of the energy crisis, the federal government is retreating even more from that commitment.

Well, they might retreat in Washington, but we're going to continue the attack in Kentucky' I don't believe you want anything less'

In my State of the Commonwealth Address, I outlined measures taken to improve our environment. I am proud to offer a budget which can do even more. To continue work already underway, and implement new programs, the next biennium will need \$24,900,000. I have earmarked capital construction monies to correct pollution deficiencies at all state facilities. We have a responsibility to clean our own house first' I also recommend the following:

An additional \$1 million for fiscal 74-75 which will stimulate the orphan land reclamation program, enabling us to reclaim more acreage as the program grows. This is your program and it's positive'

Nearly \$800,000 the next two years to increase the number of air monitoring stations, and \$125,000 to research new or modified indirect sources of air pollution.

\$350,000 to implement the sediment control legislation under the Federal Water Quality Control Act.

One million dollars to repair and maintain dams on state-owned lakes, protecting thousands of Kentuckians, and ensuring water sources for hundreds of local communities.

\$400,000 for the biennium to launch beautification projects in every county while pushing ahead our efforts to rid the countryside of junk automobiles and orphan dumps. First-time funding of the Wild Rivers

Act. \$120,000 to regulate the sale or use of pesticides.

One aspect of environmental protection which has never been attempted here is the study of surfact disturbances from underground mining. For this purpose, and subsequent action, the budget contains \$400,000.

Finally, during the next biennium, nearly 50 communities will benefit from funds provided through the Kentucky Pollution Abatement Authority for construction of sewage treatment plants.

No one can reasonably deny the advancements you and I have made in environmental protection--more in the last two years than in a decade. I am here now to strongly urge more progress by calling for legislation to strengthen strip mine reclamation, especially as it pertains to eliminating overburdens and going to head-of-hollow fills.

TRANSPORTATION

The impact of the energy crisis on transportation already has been felt. More headaches are anticipated. And it is in this practical vein that we must approach the area of transportation.

In the past two years, Kentucky has made great strides in transportation despite no federal transportation bill a year ago and federal impoundments of funds. Uncertainties over road receipts prompt caution.

Despite serious handicaps, we have decided to continue the same levels of service of the past two years by providing \$554 million in state funds for the biennium. This requires a supplement of \$26.5 million in general fund non-recurring monies.

Careful monitoring will be maintained to evaluate expected reductions in road funds during this crisis period, one expected to last beyond the 1974-76 biennium.

Certainly, the 1972 General Assembly's decision to establish a recommended municipal street program has become even more important to our cities and towns. This program, along with the rural secondary and county road aid programs will continue to have my strong endorsement.

Even with an emphasis on existing programs, there are five new ones I suggest:

The establishment of a new mass transit program at the state level to provide needed planning and technical assistance to local, regional and state transportation agencies. Our three largest metropolitan areas--Louisville, Lexington and Northern Kentucky--already have felt the necessity of such assistance, and other sections of our state eventually will be seeking expertise from this office as population grows. A mass transit staff will be assembled within the Department of Transportation to assist both urban and rural areas in planning and completing studies which are a prerequisite for obtaining federal capital grant dollars. I am recommending an expenditure of a million plus dollars so we can quit talking, and get on with the job of transporting people in urban areas.

With the appropriation of \$1.1 million in new monies over the biennium, we can, for the first time, fully implement an overall planning series with the Department giving us a long-range, comprehensive approach to all modes of transportation.

The overall impact of transportation on Kentucky's environment will be acted upon by the implementation of the Environmental Action Plan. New money will be provided for specialized staffing, presently not available.

I am asking for nearly one million dollars to comply with Federal Traffic Sign and Signal Standards by the end of the biennium.

And, I am requesting funds for semi-annual airport safety inspections, another standard which has never been achieved in Kentucky.

PROTECTION AND REGULATION

A first observation in Consumer Protection and Regulation is the name change. We adopted a good editorial suggestion with the title now being: Public Protection and Regulation.

Some have characterized Public Protection and Regulation as a "catch-all" function. Though not quite true, the Cabinet does reach into all 120 counties, serving as an umbrella to shield the public from those who would take advantage by fraud, deception, misrepresentation and even innocent error. The Cabinet stimulates better working conditions, provides educational resources for industry, business and the consumer, and regulates various activities affecting the general public.

Upon assuming office, one of the most tragic omissions of responsibility discovered had been in Banking and Securities. Conditions were so bad I authorized \$167,000 from my contingency fund to rectify some of them. But more is necessary, such as \$150,000 extra dollars through 1976 to continue our efforts to upgrade the Department of Banking and Securities supervision of state banks and state securities. We must add six new examiners'

New programs or expansions call for:

Nearly \$500,000 to expand the inspections made under the minimum safety standards program in the Department of Insurance. Only a small fraction of inspections needed for minimum safety standards are being made. I am recommending funds to comply fully with those standards--another first.

\$50,000 increase each year in grants to local Volunteer Fire Departments.

\$150,000 to establish a new program to aid volunteer rescue squads in the Commonwealth by providing grants to purchase equipment and to help train members of the volunteer rescue squads. This will be another first for Kentucky.

\$125,000 each year to establish a new program in the Department of Labor, Labor Education and Research, to better equip the members and leaders of labor organizations and to encourage them to participate in solving community problems.

Nearly \$131,000 to the Department of Labor for the compliance of apprentice agreements.

Funds to add three mine inspectors and necessary equipment.

Finally, I have recommended general fund support for research and security in our racing industry. This recommendation is designed to promote the horse industry and horse racing and to safeguard against scandals, that have hit race tracks in other states.

This budget reflects concern for the protection of the safety, health and economic well being of all Kentuckians as well as protecting the economic integrity of the industries regulated by the agencies in the Cabinet. There is another point for your consideration. I favor a no-fault insurance plan that reduces premiums. I urge you to pass such a bill that will also comply with Kentucky's strict Constitution.

DEVELOPMENT

Our economic thrust has been and will continue to be through a combination of activities requiring the support and cooperation of countless individuals and organizations. Maintaining Kentucky's outstanding economic growth, especially through a period of uncertainty, requires even more effort. But there can be no give and take, especially as it affects our quality of life.

We have been selective in seeking new industries, rather than throwing open the door for anybody.

And we're going to continue to say:

If you pollute--we don't want you'

If you pay insufficient wages--go elsewhere'

If you are coming here thinking first of yourself rather than your new home state--don't.

There are far too many service-oriented businesses and industries, where management is progressive and thoughtful, for Kentucky to be satisfied with anything less than blue chip firms'

Service-oriented development can be illustrated when a state joins, as I recommend we do, with Lexington by providing \$4 million toward its new civic center. . .with Louisville by providing \$22 million for the Kentucky Exhibit Hall. . .and by improving the State Fair and Exposition Center in order to attract hundreds of thousands of new visitors.

Service-oriented development comes through research, such as my call for the most challenging program in our state's history, delivered last week in my energy message.

Service-oriented development comes through tourism--last year a \$699 million industry. When out-of-staters visit Kentucky, they support our economy. I have suggested substantial new funds for capital construction and renovations at nearly every major resort and recreation park in Kentucky, including \$4 million for utilities at the State Horse Park and \$2 million for development of Dale Hollow.

Service-oriented development comes with agriculture, and for the first time, we will sponsor the North American Livestock Exposition, another step in the promotion of our growing cattle industry.

But development goes beyond that already emphasized.

You are being asked to fund increased laboratory services through renovation of the Hopkinsville Animal Diagnostic facility. You are being asked to spend new dollars to replace and modernize precision balance equipment the Department of Agriculture must have for consumer protection in packaging, inspecting retail stores, gasoline pumps, stockyards and other facilities.

Two years ago, in my budget address, I promised that with Legislative approval, we would show marked improvements in state productivity, individual earnings, employment and citizen satisfaction. We did. I call upon you now to break that record and enhance the future of every Kentucky resident.

GENERAL GOVERNMENT

Minimizing the spiraling cost of administering state government was a principal campaign position of mine, and has been of foremost concern.

Action thus far will not only have an immediate impact on the overhead costs of delivering services to the people, but will create a lasting effect on the ability of future administrations to hold down the amount of dollars required to "support" rather than deliver services.

Two steps taken before the actual preparation of this budget have been and will continue to be significant in reducing the cost of state government.

1. I directed, last summer, that all vacant positions in every organization of state government be analyzed and abolished if possible. As a result, 3,120 positions were eliminated.

2. Of equal significance is the project, now 18 months old, of centralizing state government computer operations. I inherited a situation when data processing equipment of all descriptions was found in nearly every agency. The application of this useful management tool was fragmented, overlapping and most of all, too expensive. As of this date, our actions will save \$2.4 million in the next biennium. Reduced equipment, labor and material cost is netting a savings of \$100,000 per month to the taxpayer, not to mention improved quality and accessibility of computer produced information.

I ask your consideration and approval of a budget for the General Government Cabinet of Agencies that represents the smallest percentage increase in biennial funding for any Cabinet of state government.

The program expansions set forth are:

\$320,000 in the biennium to implement a comprehensive, sophisticated Emergency Operation Center in the Boone National Guard Center now under construction in Frankfort. In time of emergency or disaster, this system will give us the ability to communicate freely with all areas of the Commonwealth.

Capital construction funds to build two new Armories, as well as funds to renovate an existing facility for a third armory. I am also recommending more than \$650,000 in the biennium for major maintenance projects at existing Kentucky armories.

Because of the fuel shortage, it appears likely that Americans will shorten travel distances for trips and vacations. With this in mind, I have increased the biennial funding of the cooperative advertising program by \$230,000. The program emphasizes local and regional travel promotion and matches local funds with a like amount of state dollars. For the state's and nation's bicentennial celebrations, this also provides matching funds for regional program advertising.

Fiscal 1975 will be the first full year of operation for the Kentucky Housing Corporation. Already, the Corporation is issuing and marketing housing revenue bonds and bond anticipation notes to create funds which will reduce the cost of housing for the poor. The Commission will operate totally with self-generated funds during the biennium.

I have added more than \$100,000 to the biennial appropriation for the Commission on Human Rights.

Other programs I have recommended expansion for are:

\$90,000 to provide marketing assistance to Kentucky's farmers, as well as various assistance and information services through the Kentucky Farmer's Advocate's Office. We are also attempting to bring the World Dairy Expo to Kentucky in 1975.

Additional staff for the Auditor of Public Accounts.

Additional staff for the Litigation Program and the Consumer Protection Program of the Department of Law, and general fund dollars for assistance to local prosecutors and officials, a program which had been funded by federal money.

Funds for the computerization of corporate records which will provide a greater service to Kentucky businesses and corporations, requested by the Secretary of State.

An expanded program in the Department of Revenue for predicting revenue collections.

My total recommendation is \$158,187,400. This is only a 6.4% increase in the face of a 15% inflationary increase in actual costs--meaning we are providing services at less costs through reorganization and businesslike approaches.

HIGHER EDUCATION

The basis for the 1974-76 recommendation in Higher Education was provided by the Council on Public Higher Education. I compliment the Council for an outstanding job of evaluating budget requests of our public institutions of higher learning. With their evaluation, we limited our review to the Council recommendation. You should also know that institution requests were the most austere in memory.

The budget recommendation contains over \$164.9 million in 1974-75 and over \$177.8 million in 1975-76 in general funds for operating our public higher education programs this biennium.

It does so without any increase whatsoever in tuition.

It does so with a reduction in tuition at the University of Louisville, which can amount to \$100 each year if anticipated funds are realized. And it does so with a \$3 million student loan fund, never established before, which will open the doors of higher education to young Kentuckians who today are shut out because they can't afford the cost.

The general fund recommendation for 1974-76 provides for an adequate level of continuation, and addresses some of the exceptional needs of higher education:

The Council will develop and implement five regional health education centers in the Commonwealth during the next biennium.

A mining technology course at Madisonville Community College, providing training for general reclamation procedures.

The budget recommendation for the University of Louisville includes a community thrust program, extending academic, cultural and service programs to more local residents particularly those in the west end.

General fund recommendations for U of L and Northern Kentucky State College reflect our strong emphasis on bringing each institution fully into the state system. Louisville's increase over the previous budget is nearly 40%, while a 57% increase has been marked for Northern.

Over \$60 million is recommended for capital improvements, above the funding already mentioned. The largest amount is \$31 million for the medical/health complex in Louisville.

Northern Kentucky State College, besides its 57% increase over the past two years, and the massive funding we appropriated in 1972, is slated in this budget for \$13 million more dollars for new and expanded facilities. . . .and this is first class status in anybody's book'

The University of Kentucky is our principal institution of higher learning. I deem it important to say publicly that in recent months, three honors have come to UK which deserve attention. Among the nation's leading Colleges of Pharmacy, Kentucky ranks fifth; among the nation's leading Colleges of Dentistry, Kentucky ranks third; and just in the past few days, the University of Kentucky was honored as one of America's major Universities for Research, along with such institutions as Columbia, Harvard, Johns Hopkins and MIT.

To accommodate the progress recognized at the University of Kentucky, I recommend over 16 million new dollars for a health/science building, a center on aging, a fine arts building and a technical institute building.

Our other institutions of higher learning, at Morehead, Eastern, Kentucky State, Murray and Western are provided additional funds in the budget for capital improvements, especially to correct pollution deficiencies.

You will be pleased to learn also, that no funds are recommended to increase debt service during the next biennium.

EDUCATION AND THE ARTS

Many questions have been asked about new directions for Kentucky's Elementary and Secondary Education. The 1972-74 budget clearly indicated this administration's determination to emphasize quality--a quality education for our children.

When Kentucky had no public kindergarten, we started one. When special education was minimal at best, we prescribed a shot in the arm. When the Teachers' Retirement System prior service deficit had been overlooked for years, we cut a small slice from the total amount. And when the state needed 2,600 new classroom units, we made construction a reality.

Recommendations for Elementary and Secondary Education not only guarantee continued massive support, but go far beyond what I believe even the most optimistic would have expected, by providing tools which stress quality.

Just to continue the progress we are making will require \$697 million during the next biennium.

In order to move our Commonwealth forward, I am requesting \$120.4 million in new state funds for expansion in the Education and Arts Cabinet, which includes the Minimum Foundation Program, and Teachers' Retirement.

Specifically, these new expenditures include:

\$85.7 million increase for the Minimum Foundation Program which will:

Increase teacher salary allotments by 7% in fiscal 1974-75 and by an additional 9% in fiscal 1975-76,

Increase current expense allotments by 7% in fiscal 1974-75 and by 9% in fiscal 1975-76,

Increase capital outlay allotments by \$150 per unit during the biennium, and,

Provide 100 additional kindergarten units,

Provide 450 additional vocational education units--a 25% increase--to serve 13,500 more students, and

Provide 1,100 additional special education classroom units.

\$7.4 million for construction of new facilities at the School for the Blind and the School for the Deaf, including a new \$2 million facility for children suffering from multiple handicaps, is urgently needed, as is \$770,000 for additional staffing at both schools.

Here are more new programs:

\$13.4 million for construction of vocational education facilities to serve 19,500 students.

\$1.8 million for operating new and expanded vocational facilities which will open during the biennium and to meet safety and health standards in existing schools.

\$1.3 million to expand our regional education offices to 15 during the biennium.

\$550,000 for the production of both mathematics and science television series for junior high students.

\$964,000 additional state matching funds to take full advantage of Federal School Lunch Funds.

\$12.1 million to reduce the Teachers' Retirement System prior service deficit to the July 1, 1972 level and begin an amortization program to fund the deficit by 1990 (I'll have more details on this later).

\$5.7 million state matching contributions to fund a 30-year teacher retirement program at age 55, long needed and long awaited.

\$6.6 million to continue the 5% cost of living increase granted retired teachers during the current biennium, and to grant an additional 5% during the 1974-76 biennium.

\$500,000 to extend our \$3,000 School District Employee Life Insurance Program to cover non-certified employees.

\$1 million to establish an emergency loan program for schools hit by disasters.

\$196,000 for the Historical Society to operate the Old Capitol, State Museum and Arsenal Museum.

All of these new and expanded programs in one way or another pertain to public education. But there is one glaring omission--the subject of libraries. No single topic has been of greater concern to me than libraries. Whoever first said a library is the people's university, offered a down-to-earth awareness that, for some unknown reason, had been tossed aside in Washington.

I regret having to again bring up the subject of federal callousness, but facts are facts. And whoever was responsible--the President for eliminating funds to states for library programs, or the Democratic--controlled Congress for letting him get away with it--should feel the same degree of shame we in

the states feel of disappointment.

I'm not going to let this tragedy strike at the heart of Kentucky's outstanding Library System' This budget leaves no doubt where I stand. Not only am I requesting money to replace the federal funds which have disappeared, I am recommending expenditures that will add to Kentucky's stature in library services.

Two years ago the Library Program in Kentucky needed \$4.9 million in state funds and got it. Now the system must have \$11.7 million from somewhere--and if we have to carry the load, we will do it'

CONCLUSION

Time does not permit discussion of every program or issue. I have covered a wide range of topics, but there are several policy areas with long-range fiscal implications deserving your special attention. They are the retirement systems, road funds, and federal funds.

Three of our four state retirement systems have major deficits. They have been growing since the systems were established long ago. The temptation of providing benefits without accepting the responsibility to appropriate funds for those costs has been wrong. The Teachers' Retirement System now has a prior year service deficit of nearly \$60 million. The Judicial Retirement System has a prior year deficit of about \$5 million. And your own Retirement Program is nearly a million dollars in the red. It is imperative that we take steps to prevent such actions in the future, and seek remedies to the problems which now exist. I will recommend legislation to prevent recurrence of this problem, and a method to correct the deficits.

I have included in my budget recommendation, funds to assure that the deficits do not increase in this administration and to begin paying off the deficit in the Judicial and Teachers' Retirement Systems. If the three succeeding governors will make a comparable appropriation, the total prior year deficit will be funded. My budget recommendation contains over \$12 million for Teachers' Retirement prior year service and over \$1.4 million for the Judicial Retirement System. Since the General Assembly prepares its own budget, funds have not been included for that million dollars but hopefully will be included in the appropriation. It is staggering amount for us to take from our budget, but it is fiscally necessary and I accept the obligation.

Road Fund Taxes

We must seek new approaches to financing transportation costs. It has been traditional in Kentucky and across the nation to rely primarily on consumption of motor fuel taxes and vehicle usage taxes for road fund monies.

Where has this led us? Consumption, even without an energy crisis, was beginning to stabilize. Thus, our road fund taxes were not increasing at the rate of inflated costs.

An efficient transportation system is too important for us to cut service, and an increase in motor fuels tax is only a temporary solution.

I am, therefore, asking the 1974 General Assembly to direct the Legislative Research Commission, during the next two years, to complete a thorough review of approaches to financing transportation needs in Kentucky. That report should be ready for consideration by the 1976 General Assembly.

Federal Funds

The trauma of federally funded state administered programs causes uncertainty. Libraries have been cut drastically; and Education, Human Resources, and Natural Resources and Environmental Protection also have lost funds.

The effect of losing federal funds which were built into recurring costs, plus an unstable economy, necessitate that we devote more of our federal funds to non-recurring type expenses. I have said for a long time that every federal grant should be carefully evaluated for the long-range, state financial implications. In this budget we have sought to take that look and will seek even better evaluation the next two years. It is absolutely necessary that before we accept outside funds to start a program, we are assured that state funds

will be available to continue that program without reducing service in other programs of state government if those outside funds are lost, cut, or impounded.

We treated federal revenue sharing the same as non-recurring state general funds. We built only \$7.9 million of these funds into recurring costs in 1975-76, and that amount is less than one percent of the total budget.

We can reasonably anticipate the lapsed funds from 1973-74 and 1974-75 to be more than \$7,900,000. The budget is based upon recurring expenses. Thus no tax increase to carry on budgeted service levels in the 1976-78 biennium will be necessary.

The Department of Revenue has carefully evaluated the outlook for our economy during the next biennium. But, problems of estimating are compounded with uncertainties not previously experienced. The staff used its best judgment with the information available today, but changes can drastically alter those assumptions. For that reason, I am asking for additional flexibility in the appropriations act to make adjustments after consultation with the Joint Committee on Appropriations and Revenue, if the estimates change.

I have asked for flexibility in this budget to permit adjustments based on up-to-date information, and controlled by your establishment of priorities. The Appropriations Act includes such a recommendation. It would be irresponsible for us to have underestimated receipts and not be in position to allocate additional dollars where needed. An example would be a priority established by you in granting a tuition reduction up to \$100 a year for the University of Louisville.

A balanced budget is submitted. To cover appropriations for the General Assembly, Legislative Research Commission and other bills with appropriations, \$14.5 million is set aside for the biennium. If you appropriate funds beyond these figures, then you must assume the responsibility for increasing taxes to pay the cost, or cut services which have been recommended.

This budget extends a helping hand into every home, school, business, agency, industry and all other aspects of life in Kentucky. It does so without the added imposition of new or increased taxes. It does so to stimulate our economy, improve the well being of Kentuckians and responds to the mandate of our citizens who look to us for leadership.

The capital construction portion is an exciting area of development, desperately needed. Reaching north, south, east and west, capital construction will be found in Louisville, Lexington, Murray, Greenville, Paintsville, Central City and Ashland.

It reaches into Prestonburg, Elizabethtown, Richmond, Mayfield, Paducah, Somerset and numerous other communities. Construction will be seen in the counties of Harlan, Bell, Christian, Trigg, Owsely, Marshall, Daviess, Lyon, and many, many more.

Every county will feel the benefits of this budget, for we have considered statewide needs. Our concern has no limitations, unlike our resources. . . yet at no time in history has the dollar stretched further.

At no time in history has the Appropriations and Revenue Committees been given so much advanced information.

For the first time you have had early review of agency requests, revenue projections, prior briefings, early briefing from agency heads and detailed explanations of the budget before it was submitted to the General Assembly.

I entered the budget process in a spirit of cooperation. These firsts reflect my respect for you and the best interests of the people of Kentucky.

Enthusiam is a telescope that advances the misty distant future into the radiant tangible present.

I am enthusiastic about our budget, enthusiastic about our present and our future.

It is here in our heritage and our resources and most of all, in our people.

I believe you feel as I do that Kentucky can, will and must emerge to take its rightful place. I believe with all my heart we are on the right track.

The budget is now in your hands. Thank you and good afternoon.

Representative Swinford moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Orders of the Day

Representative Swinford moved that **HB 48** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Swinford moved that **HB 48** be placed upon its passage.

On the roll call the vote was yeas 65-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Givhan, Graves, Guenther, Hancock, Head, Hellard, Hinkle, Holloway, Hopkins, Hughes, Hurst, Kafoglis, Kenton, Kidd, Kleier, Lewis, Loudon, Mann, Mason, May, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Stephens, Stewart, Stone, Swinford, Turner, Vincent, Watkins, Wells, G. White, Whitfield, Wible. Nays 20-Brewer, Dietz, Hardin, Hislope, Imes, Isler, King, Little, Maynard, McBee, Overstreet, Roberts, Robinson, Sale, Sharpe, Smith, Thomas, Troop, VanHorn, J. White.

HB 48 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 48** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Speaker Pro Tempore Paxton presiding.

Representative Swinford moved that **HB 1** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Blume moved that **HB 1** be placed upon its passage.

On the roll call the vote was yeas 69-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Givhan, Guenther, Hancock, Hardin, Harris, Hellard, Hinkle, Isler, Kafoglis, Kenton, Kleier, Lewis, Little, Loudon, Mann, Mason, Maynard, McBee, McBride, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 16-Blythe, Denham, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, King, Nett, Overstreet, Rattliff, Robinson, VanHorn, G. White.

HB 1 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 1** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Speaker Blume presiding.

Representative Swinford moved that **HB 6** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Hinkle moved that **HB 6** be placed upon its passage.

On the roll call the vote was yeas 81-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Pearman,

Paxton, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 5-Bruce, Imes, Quickert, Richardson, Troop.

HB 6 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 6** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 15** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 18** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Blandford moved that **HB 18** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, O'Brien, Pearman, Paxton, Priddy, Rattliff, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 18 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 18** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 73**, **HB 137** with floor amendment attached thereto, and **HB 181** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 183** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Lewis moved that **HB 183** be placed upon its passage.

On the roll call the vote was yeas 82-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 183 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 183** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 204** and **HB 216** be deferred and that they retain their position in Orders of the Day. Agreed.

Announcements

Representative Kidd requested that she be recorded as voting "yea" on **HB 1**.

Representative McBride requested that he be recorded as voting "yea" on **HJR 13**.

Representative Lindsay filed Floor Amendment No. 1 to **HB 231**.

Representative Swinford filed Floor Amendment No. 2 to **HB 52**.

Representative Kidd filed Floor Amendment No. 2 to **HB 137**.

Representative Blandford filed Floor Amendment No. 1 to **HB 15**.

Representative Bruce filed Floor Amendment No. 2 to **HB 71**.

Representative DeMarcus filed Floor Amendment No. 2 to **HB 15**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 288, by Representative Swinford: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 302, by Representative Kafoglis: AN ACT relating to the state tree.

HB 303, by Representatives Lindsay, Richardson, McBride, Denham, Hurst and Graves: AN ACT relating to hunting.

HB 304, by Representatives Kenton, Stephens, Hinkle, VanHorn, Clarke, Hellard and Hopkins: AN ACT relating to the Kentucky Horse Council.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 236, HB 245, HB 246, HB 276, SB 9, SB 10, SB 11, SB 25, SB 52**.

State Government: **HB 250**.

Counties and Special Districts: **HB 275**.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Wednesday, January 23, 1974.

On the roll call the vote was yeas 70-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Priddy, Quickert, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, J. White, Whitfield, Wible. Nays 0.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 23, 1974

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House of Representatives. Agreed.

Representative Hughes moved that the reading of the Journal of January 22, 1974, be dispensed with and the same approved. Agreed.

Representative Swinford moved that the rules be suspended for consideration of **HR 23**. Agreed.

HR 23, by Representative Wells: A RESOLUTION congratulating Eastern Kentucky University.

HR 23, A RESOLUTION congratulating Eastern Kentucky University.

WHEREAS, Eastern Kentucky University is this year commemorating a century of higher education on its campus at Richmond, dating to the 1874 founding of Central University; and

WHEREAS, since its founding as a public institution in 1906, Eastern Kentucky University has achieved a distinguished record of institutional development that was recognized by the General Assembly's granting of university status in 1966; and

WHEREAS, through its philosophy of extending educational opportunities to the broadest possible segment of society, Eastern Kentucky University has granted 26,630 degrees and has served countless thousands of other individuals in meeting their educational goals; and

WHEREAS, Eastern Kentucky University has recorded an admirable record of research and public service while maintaining emphasis on the teaching function of its mission as a regional university; and

WHEREAS, Eastern Kentucky University has developed a broad academic offering in the liberal and fine arts, the sciences, business, teacher education, pre-professional and professional areas and in the applied and technical disciplines; and

WHEREAS, seeking to serve in unique and needed ways, Eastern Kentucky University has taken a position of leadership in areas such as criminal justice education, nursing and allied health, vocational and technical education, and special education and rehabilitation; and

WHEREAS, through its dynamic approach to its responsibilities as a public institution, Eastern Kentucky University has drawn national attention to itself and its programs, reflecting favorably on the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the 1974 Kentucky House of Representatives expresses its congratulations and appreciation to Eastern Kentucky University during its Centennial Year of Higher Education.

Representative Wells moved the adoption of **HR 23**. Agreed.

Dr. Robert Martin, President of Eastern Kentucky University, addressed the House.

Senate Message

Announcing passage of **SB 1, SB 29, SB 59, SB 68, SR 9.**

Introduction of Bills and Resolutions

HB 305, by Representative Kidd: AN ACT relating to the Kentucky Housing Corporation.

HB 306, by Representative Little: AN ACT relating to workmen's compensation.

HB 307, by Representatives Gay, Freeman, Adams, Dawahare, Turner, McBrayer and J. White: AN ACT relating to the taxation of minerals.

HB 308, by Representative Nett: AN ACT relating to solicitations by employees of city and county government.

HB 309, by Representative Clapp: AN ACT relating to legislative auditing and the Joint Interim Committee on Appropriations and Revenue.

HB 310, by Representatives O'Brien and Holloway: AN ACT changing the classification of the City of Saint Regis Park in Jefferson County.

HB 311, by Representatives Hopkins, Kenton and Karem: AN ACT relating to hunting and trapping.

HB 312, by Representatives Overstreet and Smith: AN ACT relating to state legislative districts.

HB 313, by Representatives Paxton, Bennett, Romines, R. Brown, McBride, Dawahare, Kenton, Little and Blume: AN ACT relating to labor relations.

HB 314, by Representatives Paxton, Quickert, Bruce, DeMarcus, Sale, Richardson, Hellard, Foster, Overstreet, Denham, Morgan, Reynolds, Imes, Chandler, Blume, May, and Harris: AN ACT relating to establishment of a system of insurance and compensation irrespective of fault for victims of motor vehicle accidents, setting forth the basis for recovery and the elements thereof, and establishing an assigned claims plan to protect injured victims against uninsured losses.

HB 315, by Representatives Dawahare, Freeman, Gay, Adams and Burch: AN ACT relating to the General Assembly.

HB 316, by Representative Burch: AN ACT relating to unemployment compensation.

HB 317, by Representative Gay: AN ACT relating to child abuse.

HJR 24, by Representatives Schmaedecke and Kenton: A JOINT RESOLUTION relating to the Kentucky Penal Code.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 304, SR 1.**

Appropriations and Revenue: **HB 288, HB 294, HB 295.**

Cities: **HB 289**

Counties and Special Districts: **HB 290, HB 291, SB 68.**

Elections and Constitutional Amendments: **HB 292.**

Health and Welfare: **SR 9.**

Highways and Traffic Safety: **HB 287.**

Judiciary: **HB 293, HB 299, HB 301, HB 303.**

State Government: **HB 296, HB 297, HB 298, HB 300, HB 302, SB 59.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 194, HB 197, HB 199, HB 201, HB 221, HB 234, HB 237, HB 240, HB 262, HB 263, HB 269, HB 271, HB 279, HB 160.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 3** with Committee Substitute attached thereto, **HB 203** with Committee Amendment attached thereto, and **HB 275** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to the solicitation of printed material.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.510 is amended to read as follows:

(1) Any person engaged in the business of soliciting orders for magazines, periodicals, encyclopedias, books, Bibles, or other printed matter or material on a subscription basis and payable on installments or on a cash basis or by contract or note, the delivery of which magazines, periodicals, encyclopedias, books, Bibles, or other printed material is contingent upon a future event, such as a downpayment or one or more installment payments, in any county in this state shall [so] register with [the local chamber of commerce of] the county *court clerk of the county* in which such solicitations are to occur, [or with the county sheriff of the county in which said solicitation shall occur,] and shall designate with said *county court clerk's* [local chamber or sheriff's] office whether such solicitations shall be made in person or by telephone, and if made in person shall furnish to the *county court clerk's* [chamber of commerce or sheriff's] office an adequate description, including state of issue and license number, of any motor vehicle or vehicles to be used in soliciting such sales or the telephone number from which telephone solicitations shall be made.

(2) *Persons required by subsection (1) of this section to register with the county court clerk shall pay the clerk, upon registration, a one dollar service fee.*

Section 2. KRS 367.530 is amended to read as follows:

All *county court clerks* [sheriffs and all chambers of commerce] in the Commonwealth shall maintain a book or other similar record on a permanent basis containing the registrations and other information required to be filed under KRS 367.510. Said book shall be a public record.

The Committee Substitute for **HB 3** is as follows:

HB 3, AN ACT relating to the solicitation of printed material.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.510 is amended to read as follows:

As used in this act unless the context requires otherwise, "solicitor" means any [Any] person engaged in the business of soliciting orders for magazines, periodicals, encyclopedias, books, Bibles, or other printed matter or material on a subscription basis and payable on instalments or on a cash basis or by contract or note, the delivery of which magazines, periodicals, encyclopedias, books, Bibles, or other printed material is contingent upon a future event, such as a downpayment or one or more instalment payments, in any county in this state [shall so register with the local chamber of commerce of the county in which such solicitations are to occur, or with the county sheriff of the county in which said solicitation shall occur, and shall designate with said local chamber or sheriff's office whether such solicitations shall be made in person or by telephone, and if made in person shall furnish to the chamber of commerce or sheriff's office an adequate description, including state of issue and license number, of any motor vehicle or vehicles to be used in soliciting such sales or the telephone number from which telephone solicitations shall be made].

Section 2. A new section of KRS Chapter 367 is created to read as follows:

Beginning July 1, 1974, every solicitor shall register annually with the county court clerk of the county in which such solicitations are to occur and shall furnish to the county court clerk the following information:

(1) Whether solicitations shall be made in person or by telephone, and if made in person shall give an adequate description, including state of issue and license number, of any motor vehicle to be used in soliciting sales of printed material, or the telephone number from which telephone solicitations shall be made;

(2) His name and social security number;

(3) The mailing address and telephone number of his permanent residence; and

(4) The name, address and telephone number of the company or organization he represents, if any.

Section 3. A new section of KRS Chapter 367 is created to read as follows:

(1) Upon registration, every solicitor shall pay the county court clerk a five dollar (\$5) service fee and the county court clerk shall issue the solicitor a numbered receipt to be effective for a period of one year from the date of registration.

(2) Prior to actual solicitation, the solicitor shall display to the potential purchaser the registration receipt issued by the county court clerk if soliciting in person or cite to the potential purchaser the number of the registration receipt if soliciting by telephone.

Section 4. KRS 367.520 is amended to read as follows:

All orders or contracts for magazines, periodicals, encyclopedias, books, Bibles, or other printed matter or material shall be void and unenforceable at the option of the purchaser if the person or persons soliciting such order or contract is in violation of the provisions of *Sections 2 and 3 of this act* [KRS 367.510].

Section 5. KRS 367.530 is amended to read as follows:

All county court clerks [sheriffs and all chambers of commerce] in the Commonwealth shall maintain a book or other similar record on a permanent basis containing the registrations and other information required to be filed under *Section 2 of this act* [KRS 367.510]. Said book shall be a public record.

Section 6. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars (\$2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than \$100 nor more than \$5,000.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of \$5,000 which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than \$50 and not more than \$500 for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of Sections 2 or 3 of this act shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

Section 7. This act shall become effective July 1, 1974.

HB 203, AN ACT relating to garbage and refuse disposal districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.040 is amended to read as follows:

(1) The affairs of a district shall be controlled and managed by a board of directors consisting of three (3) or more members as hereinafter provided. If the district lies wholly within one (1) county, the board shall consist of three (3) members and shall be appointed by the county judge of that county within thirty (30) days after the establishment of the district. If the district lies within two (2) counties, the county judge of the county in which the greater portion of the population of the district lies shall appoint two (2) directors and the county judge of the other county shall appoint the third. If the district lies within more than two (2) counties, in addition to the directors just enumerated, the county judge of each county exceeding two (2) shall have the right to appoint one (1) additional director. The legislative body of each city of the first three (3) classes or if none each city of the highest class located within each county in the district, which city elects to operate as a part of the district, shall have the right to appoint one (1) additional director. Each board member shall reside within the district and within the county or city by which he is appointed.

(2) Each director shall receive an annual salary of not more than \$3,600 which shall be paid out of the garbage and refuse disposal district fund. In the case of a single-county district, the salary shall be fixed by the county court; in multi-county districts, it shall be fixed by agreement between the county courts. In the case of a single-city district, the salary shall be fixed by the legislative body of the city; in multi-city districts, it shall be fixed by agreement between the city legislative bodies. In the case of a district comprised of one or more than one city jointly and cooperatively with any one or more than one county, it shall be fixed by agreement between the legislative body and the county court. In fixing the salary of the directors, the court and the legislative body shall take into consideration the financial condition of the district and its ability to meet its obligations as they mature.

The Committee Amendment to **HB 203** is as follows:

Amend printed copy of House Bill 203 page 2, line 5 by changing "shall" to "may";

and on line 9 by changing "county" to "fiscal";

and on line 10 by changing "county" to "fiscal";

and on line 17 by changing "county" to "fiscal".

HB 275, AN ACT relating to assistant county attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 69.300 is amended to read as follows:

(1) The assistant county attorneys shall possess the qualifications of a county attorney, except assistant county attorneys in counties containing a city of the third class shall be attorneys licensed to practice in the Commonwealth. [and] The assistant county attorneys shall have the same powers and perform the same duties that county attorneys have and perform, except that they shall be under the direction and control of the county attorney.

(2) In the absence of the county attorney, the first assistant shall act as county attorney, and in the absence of the county attorney and the first assistant, the second assistant shall act as county attorney. The assistants shall not receive additional compensation for acting as county attorney.

(3) *In counties having a population of 250,000 or more, the county attorney shall appoint a first and second assistant county attorney and the additional deputies or assistants authorized by KRS 64.530. The first and second assistant county attorneys shall be appointed for terms of four years subject to removal at any time by the county attorney.*

(4) *In counties having a population of less than 150,000 and not containing a city of the second class, the county attorney may appoint an assistant county attorney for the duration or unexpired part of his term but shall be subject to removal at any time by the county attorney. During the absence of the county attorney from the county or if the county attorney is unable to attend the assistant county attorney shall act as county attorney.*

(5) *In counties containing a city of the second, third, or fourth class, the county attorney may appoint an assistant county attorney for the duration of his term subject to removal at any time by the county attorney. The assistant county attorney shall receive an annual salary to be fixed by the fiscal court and paid out of the excess fees received by the county attorney or out of the general county levy but such payment shall not diminish the total salary, fees or commissions paid to the county attorney. In the absence of the county attorney, the assistant shall act as county attorney, without additional compensation.*

Section 2. KRS 69.275, 69.276, 69.280, and 69.310 are repealed.

Section 3. Whereas, it is increasingly difficult to obtain experienced attorneys to serve as assistant county attorneys in the less populated counties of the Commonwealth, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute for **HB 275** is as follows:

HB 275, AN ACT relating to Assistant County Attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 69.275 is amended to read as follows:

(1) The office of assistant county attorney in counties having a population of less than 150,000 and not containing a city of the second class, is hereby created.

(2) The assistant county attorney shall be appointed by the county attorney for the duration or unexpired part of his term, but shall be subject to removal at any time by the county attorney.

(3) The assistant county attorney shall *reside in the county in which the county attorney is elected and shall be an attorney licensed to practice in the Commonwealth* [possess the qualifications of a county attorney], and during the absence from the county of the county attorney or his inability to attend shall act as county attorney and have the same powers and perform all the duties now or hereafter imposed on county attorneys by law, and while so acting shall be paid and receive the fees and commissions that the county attorney would have received if present and acting, the county attorney to continue to receive the salary fixed by the fiscal court.

Section 2. KRS 69.276 is amended to read as follows:

(1) The county attorney in counties containing a city of the second, third or fourth class may appoint an assistant county attorney for the duration of his term, subject to removal at any time by the county attorney.

(2) The assistant county attorney shall receive an annual salary to be fixed by the fiscal court and paid out of the excess fees received by the county attorney or out of the general county levy, and such payment shall not diminish the total salary, fees or commissions paid to the county attorney. He shall *reside in the county in which the county attorney is elected and shall be an attorney licensed to practice in the Commonwealth* [possess the qualifications required of a county attorney] and shall have the same powers and perform the same duties as the county attorney, subject to the direction and control of the county attorney. In the absence of the county attorney, the assistant shall act as county attorney, without additional compensation.

Section 3. KRS 69.300 is amended to read as follows:

The assistant county attorneys shall *reside in the county in which the county attorney is elected and shall be attorneys licensed to practice in the Commonwealth* [possess the qualifications of a county attorney] and shall have the same powers and perform the same duties that county attorneys have and perform, except that they shall be under the direction and control of the county attorney.

Section 4. Whereas, it is increasingly difficult to obtain experienced attorneys to serve as assistant county attorneys in the less populated counties of the Commonwealth, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Health and Welfare reported **HB 65**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to mobile homes and recreational vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 227 is created to read as follows:

As used in this Act, unless the context requires a different definition:

(1) "Mobile home" means a movable or portable unit constructed to be moved from place to place on the public streets or highways and designed to permit the permanent or temporary occupancy therein for the purpose of use as a place of residence, business, profession, or trade by the owner, lessee or their assigns and which can be connected to electric, water, gas, sewage and telephone facilities. It may consist of one or more units that can be attached or joined together to comprise an integral unit or condominium structure. It shall include house trailers which are regulated as to length, width and registration by KRS Chapter 186.

(2) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(3) "Seal" means a device or insignia issued by the office to indicate compliance with the standards, rules and regulations established by the office or the board for mobile homes and recreational vehicles.

(4) "Class B seal" means a seal issued pursuant to Section 6, subsection (3) of this Act.

(5) "Dealer" means any person, other than a manufacturer, as defined herein, firm or corporation, who sells or offers for sale three or more mobile homes or recreational vehicles in any consecutive twelve month period.

(6) "Salesman" means an individual who sells mobile homes or recreational vehicles for a dealer to the public.

(7) "Mechanic" means an individual employed by a dealer to repair mobile homes or recreational vehicles.

(8) "Manufacturer" means any person who manufactures mobile homes or recreational vehicles and sells to dealers or to the public.

(9) "Office" means the Office of the State Fire Marshal.

(10) "Board" means the Mobile Homes Certification and Licensure Board.

(11) "NFPA 501 (B)" means that section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for mobile homes.

(12) "NFPA 501 (C)" means that section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for recreational vehicles.

Section 2. A new section of KRS Chapter 227 is created to read as follows:

(1) There is hereby created the Mobile Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and license dealers and salesmen.

(2) The board shall consist of the State Fire Marshal, the Commissioner of Transportation, the Commissioner of Health, the Director of the Division of Sanitary Engineering of the Department of Health, or their designees and three citizens of the Commonwealth appointed by the Governor, including one manufacturer of mobile homes, one mobile home dealer, and one mobile homes' park operator.

(3) The Commissioner of Transportation, the State Fire Marshal, the Commissioner of Health and the Director of the Division of Sanitary Engineering of the Department of Health shall be permanent members of the board and the appointed members of the board shall hold office for terms of four years with the terms of members expiring on September 1 of even numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate one member to serve for two years, and two to serve for four years.

(5) If a vacancy occurs in the office of one of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the State Fire Marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to \$25 for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in this Act shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 3. A new section of KRS Chapter 227 is created to read as follows:

(1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes and recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. Said standards and requirements shall be those embodied in NFPA 501 (B) and NFPA 501 (C) respectively.

(2) The office shall enforce such standards and requirements for the body and frame design and construction of mobile homes and recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. Said standards and requirements shall be those embodied in NFPA 501 (B) and NFPA 501 (C) as amended from time to time by the National Fire Protection Association.

Section 4. A new section of KRS Chapter 227 is created to read as follows:

(1) It is unlawful for any manufacturer to manufacture or sell mobile homes or recreational vehicles within this State after the effective date of this Act unless such manufacturer has been issued a certificate of acceptability for such mobile homes or recreational vehicles from the office. This provision shall not, however, apply to mobile homes or recreational vehicles manufactured in this State and designated for delivery to and sale in a state that has a code that is inconsistent with this Act.

(2) The office shall require that the manufacturer establish and submit to the office for approval, systems for quality control and transportation, prior to the issue of certificates of acceptability.

(a) The office shall issue a certificate of acceptability to any manufacturer within or without this state upon receipt of an application from such manufacturer to which is attached an affidavit certifying that any mobile home or recreational vehicle manufactured by the applicant will be built in compliance with NFPA 501 (B) or NFPA 501 (C), whichever is applicable.

(b) Certificates of acceptability shall be numbered and a record shall be kept by the office, by number, of the certificates issued to manufacturers.

(3) No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

(4) The office may determine that the standards for mobile homes or recreational vehicles established by a state or a recognized body or agency of the federal government are at least equal to NFPA 501 (B) or NFPA 501 (C). If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such mobile homes or recreational vehicles.

Section 5. A new section of KRS Chapter 227 is created to read as follows:

(1) The board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of this Act.

(2) At least 30 days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation or modification, amendment or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

Section 6. A new section of KRS Chapter 227 is created to read as follows:

(1) No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this State mobile homes or recreational vehicles unless they bear a seal of approval issued by and purchased from the office.

(2) Seals issued by the office shall be numbered and shall be affixed to the mobile home or recreational vehicle in a conspicuous place.

(3) Any dealer who has acquired a used mobile home or recreational vehicle without a seal, or one manufactured prior to the effective date of this Act, shall apply to the office for a Class B seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for used mobile homes or recreational vehicles.

Section 7. A new section of KRS Chapter 227 is created to read as follows:

(1) The office shall license dealers under the provisions of this Act. The office may make the issuance of a license contingent upon the applicant's chief managing officer passing a test administered by the office.

(2) The office shall license salesmen under the provisions of this Act. The office may make the issuance of a license contingent upon the applicant passing a test administered by the office.

(3) The office shall license mechanics under this Act.

Section 8. A new section of KRS Chapter 227 is created to read as follows:

(1) No dealer shall engage in business as such in this state without a license therefor as provided in this Act.

(2) No salesman shall engage in the business of selling mobile homes or recreational vehicles in this state without a license therefor as provided in this Act.

(3) No manufacturer shall engage in business as such in this state, or import mobile homes or recreational vehicles into this state, without a certificate of acceptability therefor as provided in this Act.

(4) Application for license shall be made to the office at such time, in such form and contain such information as the office shall require and shall be accompanied by the required fee. The office may require in such application, or otherwise, such information as it deems commensurate with the safeguarding of the public interest in the locality in which said applicant proposes to engage in business, all of which may be considered by the office in determining the fitness of said applicant to engage in business as set forth in this Act.

(5) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted. A salesman shall be issued a temporary permit immediately upon his applying for a license. Said permit shall be valid until the office acts upon his application for a license.

(6) The license fee for such calendar year or part thereof shall be established by the board, subject to the following maximums:

(a) For manufacturers a "certificate of acceptability" shall be subject to a maximum of \$500.

(b) For dealers the maximum license fee shall be \$250 for each established place of business.

(c) For salesmen the maximum license fee shall be \$25.

(d) For mechanics the maximum license fee shall be \$25.

(e) The fee for a "seal of approval" and a "Class B seal" shall be established by the board subject to a maximum of \$25 per seal.

(7) All revenues raised through the provisions of this subsection shall be used solely for the purpose of carrying out the provisions of this Act.

(8) The licenses of dealers shall specify the location of the established place of business and must be conspicuously displayed there. In case such location be changed, the office shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(9) The Board shall by regulation require each dealer and manufacturer to furnish and maintain with the office a bond, with corporate surety, in the sum of \$20,000 in such form as required by the department, conditioned upon such dealer complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of his license hereunder. The bond shall be executed in the name of the Commonwealth of Kentucky for the benefit of any aggrieved parties, but the penalty of said bond shall not be invoked except after a court adjudication thereof.

(10) Every dealer licensed in accordance with the provisions of this section shall make reports to the office at such intervals and showing such information as the office may require.

Section 9. A new section of KRS Chapter 227 is created to read as follows:

(1) A license may be denied, suspended or revoked on the following grounds:

(a) Evidence of insolvency;

(b) Material misstatement in application for license;

(c) Wilful failure to comply with any provisions of this section or any rule or regulation promulgated by the board under Section 5 of this Act;

(d) Wilfully defrauding any retail buyer to the buyer's damage;

(e) Wilful failure to perform any written agreement with any buyer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required bond;

- (h) Having made a fraudulent sale, transaction or repossession;
- (k) Employment of fraudulent devices, methods or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail instalment contracts and the redemption and resale of such goods;
- (j) Being a dealer and having acquired ownership of a mobile home or recreational vehicle by trade or otherwise, fails to put the title to said mobile home or recreational vehicle in his name;
- (k) Having violated any law relating to the sale or financing of mobile homes or recreational vehicles.
- (2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent.

Section 10. A new section of KRS Chapter 227 is created to read as follows:

- (1) The office is empowered to inspect all mobile homes and recreational vehicles for which it has issued a seal of approval. The office may, at its discretion, accept in-plant inspection reports by a recognized body or agency having follow up in-plant inspection service certifying that the mobile homes and recreational vehicles comply with the terms and conditions of the certificate of acceptability.
- (2) The office may establish and require such training programs in the concept, techniques, and inspection of mobile homes and recreational vehicles for the personnel of local governments, as the office considers necessary.

Section 11. A new section of KRS Chapter 227 is created to read as follows:

The office may set qualifications, employ and fix the compensation of such state inspectors as the office deems necessary to carry out the functions of this Act. To carry out the provisions of the Act, the office may authorize the state inspectors to travel within or without the state for the purposes of inspecting the manufacturing facilities for mobile homes and recreational vehicles or for any other purpose in connection with the Act.

Section 12. A new section of KRS Chapter 227 is created to read as follows:

- (1) The office may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.
- (2) No license shall be suspended or revoked by the office except after a hearing thereon. The office shall give the licensee at least thirty (30) days' notice of the time and place of hearing and of the charges against it.
- (3) Any manufacturer who violates or fails to comply with this Act shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within 60 days. Should the manufacturer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any certificate of acceptability if it finds that:
 - (a) the manufacturer has failed to pay the fees authorized by this Act; or that
 - (b) the manufacturer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act.
 - (c) the manufacturer of mobile homes or recreational vehicles has shipped or imported into this state a mobile home or recreational vehicle to any person other than a duly licensed dealer.
 - (d) being a manufacturer of mobile homes or recreational vehicles having shipped or imported into this state for sale any mobile home or recreational vehicle so constructed as to fail to comply with the standards established by this Act.
- (4) Any person aggrieved by any ruling of the department denying a license or suspending or revoking a license, within fifteen (15) days after any such ruling of the department may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that any applicant is not qualified to receive a license, no license shall be granted. If the board shall determine that the licensee has wilfully or through gross negligence been guilty of a violation of any of the provisions of subsection (1) of Section 9 of this Act, his license may be suspended or revoked.

(5) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

(6) Any person who wilfully manufactures, sells, or offers for sale a mobile home or recreational vehicle in this state in violation of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$1,000 or by confinement of not more than 30 days, or both.

Section 13. KRS 190.991 is amended to read as follows:

Any person who violates any of the provisions of KRS 186.695[, 190.180 to 190.250] shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding \$500 or be imprisoned for a term not to exceed six (6) months, or both so fined and imprisoned.

Section 14. KRS 190.180, 190.190, 190.200, 190.210, 190.220, 190.230, 190.240, 190.250 are repealed.

The Committee Amendment to **HB 65** is as follows:

Amend printed copy of House Bill 65 page 2, line 21 by deleting the words "or to the public"; and on page 3, line 18, by deleting the word "three", and inserting in lieu thereof the word "four"; and on line 20 by deleting the word "and"; and on line 20 after the word "operator", by inserting the words "*and one recreational dealer*".

The Committee on State Government reported **HB 22**, **HB 114**, and **HB 145** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.650 is amended to read as follows:

Unless otherwise provided by law, all papers, books, and other records of any matter required by law or administrative rule to be kept by any agency[,] *of the state, its counties, cities, school districts and other political subdivisions which receive funds derived from public taxation*, and all records arising from the exercise of functions [authorized thereby,] *by these agencies*, are public records and shall be open to inspection by any [interested person] *member of the public* subject to reasonable rules as to time and place of inspection [established under KRS 12.080]. A certified copy of any public record, subject to any such rules in effect, shall be furnished by the custodian thereof[,] to any [person] *member of the public* requesting it, upon payment of such reasonable fee therefor as may be prescribed by law or by administrative rule.

HB 114, AN ACT relating to open space land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.410 is amended to read as follows:

(1) "Local legislative body" means the chief governing body of a city or county which has legislative powers whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, the fiscal court, or otherwise.

(2) "Open space land" means any land in an area which is provided or preserved for park or recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or community development purposes.

(3) "Public body" means *the State Department of Parks* [any state agency] or local legislative body.

Section 2. KRS 65.420 is amended to read as follows:

Public bodies [local legislative bodies] may obtain scenic and recreation easements in the Commonwealth for the purposes of providing necessary land for park development, restoration or preservation of scenic beauty, restoration or preservation of areas of historical interest, community development purposes and similar public purposes.

Section 3. KRS 65.430 is amended to read as follows:

To carry out the purposes of KRS 65.410 to 65.460, *public* [local legislative] bodies may acquire by purchase, gift, lease, bequest or otherwise title to or any interests or rights in real property that will provide a means for the preservation or provision of permanent open space land.

Section 4. KRS 65.440 is amended to read as follows:

(1) *Public* [Local legislative] bodies shall have all the powers necessary to carry out the purposes and provisions of KRS 65.410 to 65.460, including the following powers in addition to others granted by KRS 65.410 to 65.460:

(a) to borrow funds and make expenditures necessary to carry out the purposes of KRS 65.410 to 65.460;

(b) to advance or accept advances of public funds;

(c) to apply for, accept and utilize grants and any other assistance from the federal government and any other public or private sources; to give such security as may be required and to enter and carry out contracts or agreements in connection with the assistance; and to include in any contract for assistance from the federal government such conditions imposed pursuant to federal laws as the *public* [local legislative] body may deem reasonable and appropriate and which are not inconsistent with the purposes of KRS 65.410 to 65.460;

(d) to make and execute contracts and other instruments necessary to the exercise of its powers under KRS 65.410 to 65.460;

(e) in connection with the real property acquired for the purposes of KRS 65.410 to 65.460, to provide or to arrange or contract for the provision, construction, maintenance, operation or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities or structures that may be necessary to the provision, preservation, maintenance and management of the property as open space land;

(f) to insure or provide for the insurance of any real or personal property or operations of the public body against any risks or hazards, including the power to pay premiums on the insurance;

(g) to demolish or dispose of any structures or facilities which may be detrimental to or inconsistent with the use of real property as open space land; and

(h) to exercise any or all of its functions and powers under KRS 65.410 to 65.460 jointly or cooperatively with one or more public bodies of this state, and to enter into agreements for joint or cooperative action.

(2) For the purposes of KRS 65.410 to 65.460 *public* [the local legislative] bodies may:

(a) appropriate funds;

(b) issue and sell their revenue bonds and general obligation bonds in the manner and within the limitations prescribed by the applicable laws of the Commonwealth; and

(c) exercise their powers under KRS 65.410 to 65.460 through a board or commission, or through such office or officers as the local legislative bodies by resolution determine[.], *or, in the case of the state, through the Department of Parks subject to the provisions of KRS Chapter 56.*

Section 5. KRS 65.450 is amended to read as follows:

Where an interest in real property less than the fee is held by the *public* [local legislative] body for the purposes of KRS 65.410 to 65.460, assessments made on the property for taxation shall reflect any change in the market value of the property which may result from the interest held by the *public* [local legislative] body. The value of the interest held by the *public* [local legislative] body shall be exempt from property taxation to the same extent as other property owned by the *public* [local legislative] body.

Section 6. KRS 65.460 is amended to read as follows:

Public [Local legislative] bodies may not exercise the power of eminent domain to acquire title to or any interests or rights in real property under the provisions of KRS 65.410 to 65.460.

HB 145, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 186 is created to read as follows:

(1) Upon application for each licensing period, owners of motor vehicles who are duly elected members of the General Assembly shall be issued an additional license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a Senator or Representative followed by the number of applicant's senatorial or legislative district (ie. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued.

(2) Any person who has been sworn as a member of the General Assembly, or who has received his certificate of election to the General Assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of

this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications promptly to the department of revenue, noting thereon the current registration number of the vehicle for which the special legislative plate is being sought. The department shall thereupon deliver the special legislative plate to the county clerk. The legislator shall leave the original plate in the custody of the county clerk and attach the special legislative plate to the vehicle so licensed.

(4) Upon the sale or transfer of a vehicle bearing such special legislative license plate, the owner shall remove same and obtain from the custody of the county clerk the original plate and attach it to the vehicle to be sold or transferred. Said special legislative plate shall be reissued by the county clerk for use on any other vehicle of the same class and category owned by the legislator for which the license was originally issued.

(5) The commissioner of revenue shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this act.

CALENDAR

HB 23 with Committee Substitute attached thereto, **HB 159**, **HB 80** with Committee Amendment attached thereto, **HB 222** with Committee Amendment attached thereto, **HB 164**, **HB 174**, **HB 39**, **HB 61** with Committee Amendment attached thereto, **HB 105** with Committee Substitute attached thereto, **HB 86**, **HB 173** with Committee Amendment attached thereto, **HB 244**, **HB 88**, **HB 24**, **HB 25** with Committee Amendment attached thereto, and **HB 70** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Swinford moved that **HB 181** be recommitted to the Committee on State Government. Agreed.

Representative Swinford moved the reading of Legislative Citations. Agreed.

Representative Morgan moved the adoption of the following Legislative Citation No. 12:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Paducah Tilghman High School football team for winning the Class AA State Football Championship and commends the coaching staff--Dan Haley, Lyman Brown, Larry Krouse, Alan Cox, Cecil Ward and Mike Ebersole--for directing the team to this notable accomplishment. (Sponsored by Representative Morgan)

Agreed.

Representative Givhan moved the adoption of the following Legislative Citation No. 13:

The House of Representatives of the Commonwealth of Kentucky hereby honors Mr. Frank Hatfield, Superintendent of the Bullitt County Schools, and extends to him congratulations for receiving the Dupree Award, which names him the outstanding school superintendent in Kentucky for 1973. This body commends Mr. Hatfield for his contributions to the Bullitt County school system and for his leadership and cooperation in community development. (Sponsored by Representative Givhan).

Agreed.

Representative Hughes requested that his name be added as a co-sponsor of **HB 14**.

Representative Imes requested the following Resolution of the Rotary Club of Murray, Kentucky, be spread upon the Journal. Agreed.

RESOLUTION

The Rotary Club of Murray, Kentucky, meeting in regular session on the 17th day of January, 1974, being desirous of expressing its sentiment as to the acquisition of a school of veterinary medicine at Murray

State University, unanimously states that:

WHEREAS, the Governor of this Commonwealth, by and through his Council on Agriculture, has recommended that all phases of livestock production be expanded, and

WHEREAS, there is a rapid increase in the concentration of people in the Jackson Purchase and surrounding areas, including the states of Illinois, Tennessee and Missouri, and a direct relationship exists between the rate of livestock diseases and human diseases, and

WHEREAS, our state has no facilities for the training of doctors of veterinary medicine while the production of livestock is encouraged and is rapidly increasing, which accounts for the dearth of trained veterinarians to meet this need, and

WHEREAS, states that provide such training rightfully take care of their own citizens in granting admission to such schools, thus severely limiting the opportunities for training of nonresident students, including those of this Commonwealth, and

WHEREAS, in 1973 Kentucky had ninety-seven qualified applicants with only twenty-two openings available to them and students from all other states, and

WHEREAS, the number of applicants increase each year while opportunities for training remain relatively constant, thus depriving many qualified and highly motivated citizens of an opportunity to receive training because of the limited class quotas, and

WHEREAS, the latest statistics reflect that by 1980, there will be a shortage of 10,000 veterinarians in the United States unless additional colleges are established, and

WHEREAS, the Commonwealth of Kentucky, in order to become a real participant in the national effort to mitigate society's major physical, mental and environmental health threats, as well as its emerging role in ecology, space biology, marine biology and oceanography, should make the necessary plans to accept its responsibility by the establishment of a school of veterinary medicine on the campus of Murray State University, and

WHEREAS, Murray State University is ideally located, has an excellent agricultural program and is foremost in studies relating to livestock and presents the true opportunity for such school of veterinary medicine.

NOW, THEREFORE, BE IT RESOLVED that Murray State University is located in a region void of veterinary education, has a strong pre-veterinarian science program, as well as outstanding programs in the physical and biological sciences, possesses the necessary land for a veterinary school, as well as adequate housing facilities for students, the Murray Rotary Club recommends that a school of veterinary medicine be established at Murray State University, Murray, Kentucky, and

BE IT FURTHER RESOLVED that the state administration and related agencies be urged to provide for and support such school to be located as hereinabove set forth.

BE IT FURTHER RESOLVED that the original of this Resolution be forwarded to Honorable Wendell Ford, Governor of the Commonwealth of Kentucky, and that copies be distributed to the various agencies of government as may be required and to the news media and such other individuals and groups as may appear meet and proper.

THE MURRAY ROTARY CLUB

The above and foregoing Resolution was presented on the 17th day of January, 1974, and unanimously adopted.

Representative Kidd requested that a roll call be taken to show co-sponsors of **HB 14**. Agreed.

The following members voted to co-sponsor **HB 14**: Adams, Allen, Bennett, Benson, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenthner, Hardin, Harris, Hinkle, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, Nett, O'Brien, Overstreet, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Thomas, Turner, VanHorn, Vincent, J. White, Yates

Representative Kafoglis requested that his name be added as a co-sponsor of **HB 100** and **HB 101**.

Representative Ratliff requested that his name be added as a co-sponsor of **HB 270**.

Orders of the Day

Representative Swinford moved that **HB 15** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the following Floor Amendment No. 1 to **HB 15**:

Amend printed copy of House Bill 15 page 2, line 6, by deleting the brackets ([]) surrounding the word "written"

Agreed.

Representative DeMarcus moved the adoption of the following Floor Amendment No. 2 to **HB 15**:

Amend printed copy of House Bill No. 15 page 3, Add the following: "(6) *No rule, regulation or order of the commission having the force and effect of law shall become effective until approved by the Interim Committee on Agriculture and Natural Resources of the Kentucky General Assembly.*"

On the roll call the vote was yeas 82-Adams, Allen, Arnold, Bennett, Blandford, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Ratliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield. Nays 11-Benson, Beshear, Blume, Chandler, Clarke, Kleier, Lewis, Quickert, Thomas, Wible, Yates.

The Floor Amendment No. 2 to **HB 15** was adopted.

Representative Blandford moved that **HB 15** as amended be placed upon its passage.

On the roll call the vote was yeas 97-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Ratliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 2-Imes, Lewis.

HB 15 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 15** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 73** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 137** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the following Floor Amendment No. 1 to **HB 137**:

Amend printed copy of House Bill No. 137 page 1, lines 5 and 6 by: Striking the phrase "State Department of Health" and by inserting "Department for Human Resources" in lieu thereof.

Page 1, lines 7, 8, and 9, by: Striking such lines in their entirety and by substituting the following in lieu thereof: "(2). "Secretary" shall mean the Secretary for Human Resources or his authorized representative;"

Page 1, line 11, by: Striking "0.5%" and by inserting "0.06%" in lieu thereof and by striking "non volatile" and by substituting "nonvolatile" in lieu thereof.

Page 2, lines 4, 5, and 6, by: Striking such lines in their entirety and substituting the following in lieu thereof: "reside in dwellings or dwelling units which were constructed and originally painted prior to 1945 or other dwellings in geographic areas in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported;"

Page 2, line 16, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 2, line 22, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 3, lines 19 and 22, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 4, lines 2, 16 and 17, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 5, lines 10, 16 and 20, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 6, lines 6, 17, 19, and 24 and 25 by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 6, line 24, by: Striking the word "and" and by substituting the word "performed" in lieu thereof.

Page 7, line 2, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Page 8, line 1, by: Striking the word "Commissioner" and by inserting "Secretary" in lieu thereof.

Agreed.

Representative Kidd moved the adoption of the following Floor Amendment No. 2 to **HB 137**:

Amend printed copy of House Bill 137 page 9, line 23, after the phrase "dwelling unit" to add the following " , after the expiration of the 30 day period specified in subsection (4) of this section,"

Agreed.

Representative Kidd moved the passage of **HB 137** as amended.

The Speaker announced that without objection consideration of **HB 137** as amended would be deferred and that it would retain its position in Orders of the Day. Agreed.

Representative Swinford moved that consideration of **HB 204** be deferred and that it retain its position in Orders of the Day. Agreed.

Senate Message

Announcing passage of **SB 14, SB 36.**

Orders of the Day (continued)

Representative Swinford moved that **HB 216** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the following Floor Amendment No. 1 to **HB 216**:

Amend printed copy of House Bill 216 page 2, line 20 after the word "board.", by adding the following:

"The board shall make available to the member the option of a lump sum payment or a payment plan whereby the amount is deducted from the employee's creditable compensation each payroll period at prevailing interest rates."

and on page 4, line 6, after the word "board." by adding the following:

"The board shall make available to the member the option of a lump sum payment or a payment plan whereby the amount is deducted from the employee's creditable compensation each payroll period at prevailing interest rates."

On the roll call the vote was yeas 18-Allen, Crupper, Davis, DeMarcus, Hancock, Hellard, Holloway, Hopkins, Hughes, Kenton, Lindsay, Mason, Maynard, Overstreet, Stephens, Stone, VanHorn, G. White. Nays 59-Adams, Arnold, Bennett, Benson, Blandford, Blume, Bowles, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hislope, Holbrook, Imes, Isler, Kafoglis, Karem, King, Lewis, Little, Mann, May, McBee, McBride, Morgan, Nett, O'Brien, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Sale, Sharpe, Siemens, Smith, Swinford, Thomas, Troop, Turner, Watkins, Whitfield, Wible, Yates.

Floor Amendment No. 1 to **HB 216** was rejected.

Representative Swinford moved that **HB 216** be placed upon its passage.

On the roll call the vote was yeas 89-Adams Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, G. White, Whitfield, Yates. Nays 2-Kafoglis, Stephens.

HB 216 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 216** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker requested that a call of the roll be taken to show co-sponsors of **HB 216**.

The following members voted to co-sponsor **HB 216**: Adams, Arnold, Bennett, Benson, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Sharpe, Siemens, Smith, Stewart, Stone, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, J. White, Whitfield, Wible, Yates.

Representative Swinford moved that **HB 11** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Siemens moved the passage of **HB 11**.

On the roll call the vote was yeas 84-Adams, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 4-DeMarcus, Kafoglis, Karem, Troop.

HB 11 was passed and the title agreed to.

Representative Swinford moved that consideration of **HB 71** and **HB 52**, with Committee Amendment attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 148** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Quickert moved that **HB 148** be placed upon its passage.

On the roll call the vote was yeas 90-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Mann, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 0.

HB 148 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 148** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 75** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected. Representative Givhan moved that **HB 75** be placed upon its passage.

On the roll call the vote was yeas 59-Adams, Arnold, Bennett, Benson, Blandford, Blume, Blythe, R. Brown, Burch, Clapp, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Hancock, Head, Hinkle, Holbrook, Imes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Loudon, Mann, Mason, McBee, McBrayer, McBride, Nett, Paxton, Priddy, Quickert, Richardson, Robinson, Romines, Sale, Schmaedecke, Siemens, Smith, Stone, Thomas, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 22-Allen, Brewer, Chandler, Crupper, Freeman, Graves, Guenther, Harris, Hellard, Hislope, Holloway, Hopkins, Hughes, Karem, Little, Morgan, O'Brien, Overstreet, Schmidt, Stephens, Stewart, Turner.

HB 75 was passed and the title agreed to.

Representative Givhan moved that the vote by which **HB 75** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 205** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Schmaedecke moved the adoption of the following Floor Amendment No. 1 to **HB 205**:

Amend printed copy of House Bill 205 page 2, line 7 by deleting by bracketing the word "monthly" and inserting in lieu thereof the word "*semimonthly*"

And on page 2, lines 9-12, by striking in its entirety the sentence beginning with "*However*" and ending with "*month.*"

Agreed.

Representative Schmaedecke moved that **HB 205** as amended be placed upon its passage.

On the roll call the vote was yeas 95-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays-0.

HB 205 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 205** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Wible moved that the rules be suspended for Reference of Bills and Resolutions. Agreed.

Representative Wible moved that **SB 59** be taken from the Committee on State Government and reassigned to the Committee on Appropriations and Revenue. Agreed.

The Speaker announced a meeting of the Committee on Banking for 12 noon on January 24, 1974.

Representative Blandford filed Floor Amendment No. 1 to **HB 73**.

Representative Nett filed Floor Amendment No. 3 to **HB 137**.

Representative Swinford filed Floor Amendment No. 3 to **HB 52**.

Representative Dawahare announced a meeting of the Eastern Kentucky delegation in Room 305 one hour before the session on January 24, 1974.

Representative Lindsay moved that the rules be suspended for the purpose of establishing a meeting time.

On the roll call the vote was yeas 26-Blythe, Brewer, Crupper, Davis, DeMarcus, Foster, Givhan, Harris, Head, Hinkle, Holbrook, Hopkins, Hughes, Kafoglis, Kidd, Lindsay, Mann, Mason, Maynard, Overstreet, Rattliff, Robinson, Troop, VanHorn, Wells, G. White. Nays 37-Adams, Allen, Arnold, Benson, Beshear, Blume, E. Brown, R. Brown, Burch, Chandler, Clarke, Dawahare, Denham, Dunn, Graves, Guenther, Hellard, Holloway, Karem, Kenton, Little, McBride, Pearman, Paxton, Priddy, Richardson, Sale, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Vincent, J. White, Wible, Yates

The motion that the rules be suspended was rejected.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 318, by Representatives Thomas, Donnermeyer, Mann and Hinkle: AN ACT relating to public education.

HB 319, by Representatives Burch and Holloway: AN ACT relating to fire protection districts and volunteer fire department districts.

HB 320, by Representative Givhan: AN ACT relating to the publication of false news items.

HB 321, by Representative Clarke: AN ACT providing for the furnishing of information by utility companies to the Property Valuation Administrator.

HB 322, by Representative Beshear: AN ACT relating to bail bondsmen.

HB 323, by Representative Lindsay: AN ACT relating to policemen's and firemen's pension funds in cities of the third class.

HB 324, by Representatives Imes, Holloway and Lewis: AN ACT relating to abandoned motor vehicles.

HR 25, by Representatives Holbrook, R. Brown, Beshear, McBrayer and Stephens: A RESOLUTION expressing sympathy to the family of Mrs. Dew Flanery Haffler.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Highways and Traffic Safety: **HB 287**.

State Government: **HB 302**.

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration.

State Government: **HB 217**.

Adjournment

Representative Swinford moved that the House adjourn until 1:00 p.m., Thursday, January 24, 1974.

On the roll call the vote was yeas 66-Adams, Arnold, Benson, Beshear, Blume, E. Brown, R. Brown, Bruce, Clapp, Clarke, Crupper, Davis, Dietz, Donnermeyer, Dunn, Foster, Givhan, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, King, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Kleier.

The motion to adjourn was adopted.

THURSDAY, JANUARY 24, 1974

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All representatives present except Representatives Blume and McGill.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House of Representatives. Agreed.

The following members filed excuses: Representatives Blume and McGill.

Representative Hughes moved that the reading of the Journal of January 23, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 325, by Representative Benson: AN ACT relating to motor vehicle operators' licenses.

HB 326, by Representatives Schmidt, Isler, Schmaedecke, Dietz, Donnermeyer, Mann, Kleier and King: AN ACT proposing to amend Section 226 of the Constitution relating to lotteries and gift enterprises to provide a means for retiring bonds paying a cash bonus to veterans of the Vietnam Conflict.

HB 327, by Representative Wells: AN ACT relating to school boards.

HB 328, by Representatives Kafoglis and Hellard: AN ACT relating to oil, gas, and salt.

HCR 26, by Representatives Yates, Priddy, Romines, Blume and Siemens: A CONCURRENT RESOLUTION urging and petitioning the United States Congress to increase the maximum speed limit for trucks to 60 miles per hour on interstate highways.

HCR 27, by Representatives DeMarcus, Hislope, Guenther, Holloway, Robinson, Hardin, Allen and Hopkins: A CONCURRENT RESOLUTION petitioning the United States Congress to amend the Uniform Time Act of 1966.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 311, HB 324.**

Appropriations and Revenue: **HB 305, HB 307, HB 309.**

Banking and Insurance: **HB 314.**

Cities: **HB 310, HB 323.**

Counties and Special Districts: **HB 319.**

Education: **HB 318.**

Judiciary: **HB 313, HB 317, HB 320, HB 322.**

Labor and Industry: **HB 306, HB 316.**

Public Utilities and Transportation: **HB 321.**

State Government: **HB 308, HB 312, HB 315.**

Report of Committees

The Committee on Rules reported **HB 39, HB 70, HB 105** with Committee Substitute attached thereto, **HB 159, HB 164, HB 173** with Committee Amendment attached thereto, **HB 174, HB 222** with Committee Amendment attached thereto, and **HB 244** have been posted for passage on January 25, 1974.

The Committee on Rules reported **HB 23**, with Committee Substitute attached thereto, has been recommitted to the Committee on Elections and Constitutional Amendments for clarification and further study.

The Committee on Rules reported **HB 61**, with Committee Amendment attached thereto, has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Rules reported **HB 88** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Judiciary reported **HB 236**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to abortions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 311 is created to read as follows:

(1) No hospital or other health care facility shall be required to, or held liable for refusal to, perform or permit the performance of abortion or sterilization contrary to its stated ethical policy. No physician, nurse staff member or employee of a hospital or other health care facility, who shall state in writing to such hospital or health care facility his objection to performing, participating in, or cooperating in, abortion or sterilization on moral, religious or professional grounds, be required to, or held liable for refusal to, perform, participate in, or cooperate such abortion or sterilization.

(2) It shall be an unlawful discriminatory practice for the following:

(a) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to, any hospital or other health care facility due to the refusal of such hospital or health care facility to perform or permit to be performed, participate in, or cooperate in, abortion or sterilization by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such hospital or health care facility with respect to abortion or sterilization; or,

(b) Any person to impose penalties or take disciplinary action against, or to deny or limit public funds, licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse or staff member or employee of any hospital or health care facility, due to the willingness or refusal of such physician, nurse or staff member or employee to perform or participate in abortion or sterilization by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such physician, nurse or staff member or employee with respect to abortion or sterilization; or,

(c) Any public or private agency, institution or person, including a medical, nursing or other school, to deny admission to, impose any burdens in terms of conditions of employment upon, or otherwise discriminate

against any applicant for admission thereto or any physician, nurse, staff member, student or employe thereof, on account of the willingness or refusal of such applicant, physician, nurse, staff member, student or employe to perform or participate in abortion or sterilization by reason of objection thereto on moral, religious or professional grounds, or because of any statement or other manifestation of attitude by such person with respect to abortion or sterilization if that health care facility is not operated exclusively for the purposes of performing abortions or sterilizations.

The Committee Amendment to **HB 236** is as follows:

Amend printed copy of House Bill 236, page 1, lines 3 to 6, by deleting No hospital or other health care facility shall be required to, or held liable for refusal to, perform or permit the performance of abortion or sterilization contrary to its stated ethical policy.

sub-section (2) delete the words-the following

sub-section (b) to become sub-section (a)

delete sub-section (a)

sub-section (c) to become sub-section (b)

The Committee on Agriculture and Natural Resources reported **HB 26** and **HB 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 26, AN ACT relating to garbage and refuse disposal districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.010 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Garbage" means all putrescible animal and vegetable waste.

(2) "Refuse" means all putrescible and nonputrescible solid waste (except body waste) including, but not limited to, combustible trash, *rubbish*, *ashes*, *incinerator residue*, *dead animals*, paper, cartons, boxes, barrels, woods, and noncombustibles including, but not limited to, material, dirt, glass, crockery and other mineral waste.

(3) "Disposal method" means any incinerator, sanitary landfill, or other method approved by the [department of environmental protection] *Department for Natural Resources and Environmental Protection* for disposing of garbage and refuse.

(4) "Collection system" means a system for collecting garbage and refuse by whatever method, and transporting said garbage and refuse from its source to the disposal site.

(5) "Person" means any individual, public or private corporation, political subdivision, copartnership, association, firm, estate, or other entity whatsoever.

(6) "Department" means the [department of environmental protection.] *Department for Natural Resources and Environmental Protection.*

(7) "Board of directors" or "board" means the governing body of the garbage and refuse district.

[(8) "Chief engineer" means the engineer of the Kentucky state health department designated to that position pursuant to the provisions of KRS Chapter 211 and the administrative orders of the department.]

Section 2. KRS 109.080 is amended to read as follows:

[(1) Upon the completion of a plan the board shall submit it to the department for approval. If the department refers the plan back for amendment, the board shall prepare and submit an amended plan. If the department rejects the plan, the board shall prepare another plan. When the department approves the plan a copy of the action of the department shall be filed with the secretary of the board and incorporated in the records of the district.]

[(2)] In carrying out the functions for which it was created a district shall provide such method or methods as shall be approved by the department for the collection and disposal of garbage and refuse or solely for the collection of garbage and refuse or solely for the disposal of garbage and refuse. The methods of disposal may include, but not be limited to, incinerators, sanitary landfills or reduction to fertilizer. All salvage or things of value resulting from the district operations may be sold and the proceeds used for the

operation of the system.

Section 3. KRS 109.090 is amended to read as follows:

After the establishment of a district, [and] the organization of the board, *and KRS 109.070 and KRS 109.080 have been complied with, the department shall not issue a permit under KRS Chapter 224 to operate any collection system or disposal method to any person who proposes to operate the same within the district* [no person shall operate within the district any collection system or disposal method] until the plans therefor have been submitted and approved by the board [and by the department]. Any operation or installation contrary to these provisions shall constitute a public nuisance and shall be abated by an injunction upon proper application by [any one (1) aggrieved including the district, the department or the local health department.] *the district.*

Section 4. A new section of KRS Chapter 109 is created to read as follows:

(1) At any time after the organization of a district more than 50 per cent of the freeholders within the district and a majority of the directors of the district may file a petition with the county court which had jurisdiction over the organization of the district requesting discontinuance of the district. The petition shall state the reasons for discontinuance and that all obligations of the district have been met.

(2) After giving notice as provided in KRS Chapter 424, the county court may conduct such hearings on the petition as may be necessary to assist in making a determination.

(3) If, after hearings on the petition for discontinuance of the district, the county court determines that a discontinuance is in the best interest of the residents of the district, the garbage district shall be dissolved by order of the county court.

Section 5. KRS 109.110 is repealed.

HB 34, AN ACT providing for the maintenance of works of improvement of a watershed conservancy district by a conservation district when the watershed conservancy district is discontinued.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.793 is amended to read as follows:

(1) Where a watershed conservancy district has been discontinued as provided in KRS 262.791 and all obligations of the district have been met, any funds or assets of the district shall be transferred to the soil and water conservation district to be used solely for the development *and maintenance* of soil and water conservation practices in the area from which the tax was collected. In the event that the area of the discontinued watershed conservancy district encompassed two (2) or more[,] soil and water conservation districts, any funds or assets to be handed over shall be prorated among the soil and water conservation districts according to the percentage of revenue contributed by the landowners within each such soil and water conservation district.

(2) *Where a watershed conservancy district is discontinued, the conservation district or districts to which its funds are transferred shall have the authority to collect revenue from within the boundaries of and in the same manner as the discontinued watershed conservancy district. The funds collected shall be expended by the conservation district for the maintenance of works of improvement done by the discontinued watershed conservancy district and for no other purpose.*

The Committee on Banking and Insurance reported **HB 248** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 248, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 82.040 is amended to read as follows:

The legislative body of any city and boards and commissions appointed by the legislative body are authorized to form their employees into a group, or groups, for the purpose of their obtaining the advantages of the group plan of life insurance; to aid such employees as long as they continue under such employment by paying from the funds of the city or from the operating expense fund of such board or commission *all or any*

portion [any sum annually not exceeding fifty per cent (50%)] of the annual premiums on such policies, to deduct from the salaries of said employees that part of the premiums which are to be paid by them and to contract with the insurer on such terms as may be provided for in such policies of insurance.

The Committee on Highways and Traffic Safety reported **HB 104** and **HB 135** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 104, AN ACT relating to motor vehicle operators' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle upon a highway secure an operator's license as provided in this chapter.

(2) All original biennial, renewal and duplicate licenses for the operation of motor vehicles shall be issued by the department of public safety. No such license shall be issued until the application therefor has been certified by the department.

(3) *The department shall notify all licensees at least one month in advance of the expiration of their licenses, according to the schedule contained in KRS 186.414.*

HB 135, AN ACT relating to operators of for-hire motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.726 is amended to read as follows:

(1) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof has obtained[, and from time to time has renewed, in accordance with the requirements of the department of public safety,] a certificate of the department of *transportation* [public safety] to the effect that the driver or chauffeur has met its requirements with respect to his health, vision, sobriety, intelligence, care, ability and experience. *Certificates shall expire in the same month as the expiration date of the applicant's operator's license issued pursuant to KRS 186.410.*

(2) No owner or operator of a motor vehicle used for hire shall permit such motor vehicle to be operated upon the highways unless the driver or chauffeur thereof is at least eighteen (18) years of age.

(3) The circuit clerk of each county shall:

(a) Act for the department of *transportation* [public safety] for the purpose of issuing certificates and badges referred to in subsections (1) and (4) of this section;

(b) Issue a certificate, when he has determined that the applicant has fully complied with the law governing applications;

(c) Report to the department of *transportation* [public safety] not later than the week following that in which the certificates were issued;

(d) Keep adequate records of all moneys collected and remitted to the department of revenue;

(e) Keep in his office at all times available to the department of *transportation* [public safety] a record of all certificates issued in his county.

(4) *The cost of the certificate shall be as follows: if the applicant's operator's license expires within six (6) months or less, \$1.00; if within seven (7) to twelve (12) months, \$2.00; if within thirteen (13) to eighteen (18) months, \$3.00; and if within nineteen (19) to twenty-four (24) months, \$4.00. The circuit court clerk shall retain fifty cents (50) [The certificate shall cost \$2.00 of which twenty-five cents (25) shall be retained by the circuit court clerk] to defray expenses of issuing the certificate and maintenance of records, and the remainder [remaining \$1.75] shall be paid into the state treasury and credited to the state road fund. The holder of such a certificate, at all times when operating a motor vehicle for hire, shall have the certificate in his possession[, and shall wear a badge, to be issued by the circuit clerk,] indicating that he is a certified driver or chauffeur.*

(5) The department may, for good cause, upon complaint or upon its own motion revoke or suspend any such certificate, and said person shall be entitled to a hearing before the department of *transportation*

[public safety].

Section 2. This act shall become effective January 1, 1975.

The Committee on Judiciary reported **HB 45, HB 213, HB 227** and **SB 52** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 45, AN ACT relating to wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.090 is amended to read as follows:

Every will shall be revoked by the marriage of the person who made the will, except :

(1) A[a] will made in exercise of a power of appointment when the estate thereby appointed would not, in default of such appointment, pass to the heir, personal representative, or next of kin of the person who made the will[.];

(2) A will that expressly provides that it is intended that a subsequent marriage shall not revoke the will.

HB 213, AN ACT relating to quarterly courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 25.410 is amended to read as follows:

In civil cases the quarterly court has jurisdiction concurrent with justice's and police courts of all actions within its county for the recovery of money or personal property, where the value in controversy is five hundred dollars (\$500) or under, exclusive of interest and costs, and concurrent jurisdiction with circuit courts of all such actions where the value in controversy is over fifty (50) and not more than *one thousand dollars (\$1,000)* [five hundred dollars (\$500)], exclusive of interest and costs.

HB 227, AN ACT relating to the sale of real estate possessed by a person under disability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 389 is created to read as follows:

Any fiduciary as defined by KRS 386.010 may, subject to the provisions of this chapter, sell or mortgage any real estate or any interest therein possessed by his ward, incompetent, decedent or trust.

Section 2. A new section of KRS Chapter 389 is created to read as follows:

(1) Section 1 of this Act shall not apply to the extent that the will or trust instrument under which the fiduciary is acting, specifically limits such a sale or mortgage, or if the county court by its order of appointment of the fiduciary, or by subsequent order, limits the power to sell or mortgage.

(2) No limitation in the order of appointment or subsequent order of limitation shall be made except upon application to the court by, or on behalf of, a person who, but for a sale of the property, would or does have a present vested interest therein and then only after a hearing before the court upon notice to the fiduciary and the owners of any other present vested interests in the property. Notice may be given by registered or certified mail posted at least ten days prior to the date of hearing and directed to all persons interested of whom the applicant has knowledge. Notice to a person under disability shall be mailed to his fiduciary or, if none or unknown to applicant, to the person having custody or control or the person under disability.

(3) An order of limitation may be amended by the court upon subsequent application of the fiduciary upon hearing and notice to the owners of present vested interests in the manner aforesaid.

(4) At the hearing the applicant shall file with the court his affidavit reciting the persons to whom notice was given, and the date of posting, and attaching a copy of the notice.

(5) An appeal may be taken to the circuit court from any order affecting the right of the fiduciary to sell or mortgage and pending such an appeal neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void. Such appeals shall be subject to the same procedure as applies to other appeals from County Court orders.

Section 3. A new section of KRS Chapter 389 is created to read as follows:

An order of limitation shall not affect the right or title acquired from a fiduciary by a bona fide purchaser unless the order shall have been caused to be indexed in the index to the real estate records in the county where the land, or the greater part thereof, is situated in such manner as to disclose its effect on the property affected thereby. Notice of an appeal pursuant to Section 2 (5) of this Act shall be likewise indexed or be without effect upon the rights of such a bona fide purchaser.

Section 4. A new section of KRS Chapter 389 is created to read as follows:

Upon application by a fiduciary to amend an order of limitation for the reason that the personal property in his hands is insufficient to pay the claims against his estate or ward, notice shall also be given to the unpaid creditors whose claims will be satisfied in whole or in part from the proceeds of sale or mortgage of the property.

Section 5. A new section of KRS Chapter 389 is created to read as follows:

In the event the power of a fiduciary to sell or mortgage any real estate is limited by the will or trust instrument under which he is acting, such limitation may only be altered or amended by the Circuit Court of the county wherein the fiduciary was appointed, or if the fiduciary is acting under an agreement of trust without court supervision, the county of the fiduciary's residence or principal place of business, in an action brought by the fiduciary in which all persons in being having a present or contingent interest in the property or its proceeds are made parties. Before adjudging that the fiduciary may deviate from the terms of the will or trust the court shall determine that there exist circumstances unknown by the testator or settlor which could not have been reasonably anticipated by the testator or settlor and which would substantially impair the accomplishment of the purposes intended.

Section 6. A new section of KRS Chapter 389 is created to read as follows:

The net proceeds of the sale or mortgage of real estate by a fiduciary shall be held, invested or distributed for the benefit of the persons who, but for the sale or mortgage, would be entitled to the income derived therefrom or the possession thereof, immediately or at some future time, in accordance with law or the will or trust under which he is acting.

Section 7. A new section of KRS Chapter 389 is created to read as follows:

(1) When two or more persons share title to real estate in such manner that a conveyance by them jointly would pass a fee simple title, any one or more of them may bring an action for the sale or division thereof in the Circuit Court of the county in which the land, or the greater part thereof, lies, making parties defendant those owners who have not joined as plaintiffs. A fiduciary possessing a power of sale may institute such an action against owners of interests not represented by him. Defendant owners shall be brought before the court in the manner provided by the civil rules whether or not a fiduciary possesses a power or sale of the defendant's interest, but any fiduciary possessing a power or sale of the defendant's interest, but any fiduciary possessing such a power shall also be made a defendant. The case shall be tried without a jury.

(2) A defendant who is under disability and for whom no fiduciary is acting shall be represented in the action by a guardian ad litem, but in the event of sale of such defendant's interest the court shall retain control of the proceeds of such interest until a duly appointed and adequately bonded fiduciary makes claim to the funds.

(3) In all such actions indivisibility of the real estate shall be presumed unless an issue in respect thereto is raised by the pleading of any party, and if the court is satisfied from the evidence that the property is divisible without materially impairing the value of any interest therein, division thereof pursuant to KRS 381.135 shall be ordered and only the shares of those desiring sale may be made.

(4) If a sale of all or any part of the real estate shall be ordered the court shall appoint a commissioner to conduct a public sale and convey the property upon terms of sale and disposition of the net proceeds as may have been determined by the court.

(5) The death of any party pending the action and prior to distribution of the proceeds of sale or setting apart a divisible share shall not affect the action but the court may direct distribution or appointment to the successors in interest of the decedent upon application therefor.

(6) If the interest of any party be one for life, or other term, in any portion of the real estate, the court may determine the value of such interest and direct that such party receive a portion of the net sale proceeds or portion of the property if divisible, in fee in satisfaction of such interest, but if any party objects to such procedure, or if the court finds that such procedure would defeat the objects and purpose of a person not a party to the action, such as a testator, grantor or settlor, but that sale or division is nevertheless desirable, the Court shall order that the interest of the life or term tenant shall continue as to his portion of the real estate or

the net proceeds of the sale thereof, in the latter case by directing that the funds be paid to a trustee, appointed by and accountable to the county court, for reinvestment and distribution of income and principal in a manner consistent with the instrument under which the life or term estate was created.

Section 8. A new section of KRS Chapter 389 is created to read as follows:

When two or more persons share title to real estate but an interest therein may be possessed by persons unborn or not immediately ascertainable an action for sale or division may be brought in the same manner as provided in Section 7 of this Act but the interest of the unborn or unascertainable persons, unless a living member of the class to which such persons belong is a party to the action, shall be represented by a guardian ad litem who is not acting in such capacity for any other party to the action. In the event of sale or division under this section the court shall enter an order consistent with Section 7 (6) of this Act to preserve the interest of the unborn or unascertainable persons until they are born, ascertained or the class to which they belong otherwise closes.

Section 9. A new section of KRS Chapter 389 is created to read as follows:

During a period in which a fiduciary possesses any power of sale an instrument or conveyance or mortgage made by any other person shall be null and void.

Section 10. KRS 389.010, 389.015, 389.020, 389.030, 389.035, 389.040, 389.045, 389.050, 389.055 and 389.060 are repealed.

SB 52, AN ACT relating to criminal prosecutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 421.225 is amended to read as follows:

[(1)] In any criminal or penal prosecution the defendant, on his own request, shall be allowed to testify in his own behalf, but his failure to do so shall not be commented upon or create any presumption against him.

[(2)] A defendant so requesting to be allowed to testify for himself shall not be allowed to testify in chief after any other witness has testified for the defense.]

Calendar

HB 3 with Committee Substitute attached thereto, **HB 203** with Committee Amendment attached thereto, **HB 275** with Committee Substitute attached thereto, **HB 65** with Committee Amendment attached thereto, **HB 22**, **HB 114**, and **HB 145** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Swinford requested that his name be added as a co-sponsor of **HB 65**.

Representative Gay moved that the rules be suspended for the purpose of changing the rules. Rejected.

Representative Little requested that his name be added as a co-sponsor of **HB 192**, **HB 196**, **HB 201**.

Representative Robinson moved that a call of the roll be taken for co-sponsors of **HB 157**.

The following members voted to co-sponsor **HB 157**: Representatives Adams, Bennett, Blandford, Blythe, Bowles, E. Brown, R. Brown, Bruce, Burch, Clapp, Davis, Dawahare, DeMarcus, Denham, Dunn, Foster, Freeman, Graves, Guenther, Hardin, Harris, Head, Hinkle, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kenton, Lewis, Little, Loudon, Mason, May, Maynard, McBee, Nett, O'Brien, Overstreet, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Turner, VanHorn, Vincent, J. White, Wible, Yates.

Representative King requested that his name be added as a co-sponsor of **HB 71**.

Representative Stone requested that his name be added as a co-sponsor of **HB 276**.

Representative Clarke moved that **HB 56** be withdrawn. Agreed.

Representative Clarke moved that **HB 60** be withdrawn. Agreed.

Representative Benson requested that his name be added as a co-sponsor of **HB 212**.

Representative Quickert moved that **HB 42** be taken from the Committee on Judiciary and committed to the Committee on Highways and Traffic Safety. Agreed.

Representative Benson moved that the Rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 329, by Representative Nett: AN ACT relating to improvement of education.

HB 330, by Representatives Benson and Karem: AN ACT relating to arrest and court records in certain criminal cases.

HB 331, by Representatives Blythe and Kleier: AN ACT relating to bicycles.

Motions, Petitions and Communications

Representative Swinford moved the reading of Legislative Citations. Agreed.

Representative Graves moved the adoption of the following Legislative Citation No. 14:

The House of Representatives of the Commonwealth of Kentucky hereby commends Janice Barnes of Paducah, Kentucky, for her unique and outstanding sketches of the courthouses in the Purchase area of the Commonwealth. This body recognizes and applauds this contribution to the preservation of Kentucky history in this year of the Bicentennial Celebration. (Sponsored by Representative Graves)

Agreed.

Representative Graves moved the adoption of the following Legislative Citation No. 15:

The House of Representatives of the Commonwealth of Kentucky hereby commends the Carlisle County Junior Woman's Club for sponsoring Janice Barnes to make sketches of courthouses in the Purchase area of the Commonwealth. This body expresses appreciation that these sketches of historic value are being made available to the public during Kentucky's Bicentennial Celebration. (Sponsored by Representative Graves)

Agreed.

Representative Priddy moved that a call of the roll be taken to show co-sponsors of **HB 164**. Agreed.

The following members voted to co-sponsor **HB 164**: Representatives Allen, Arnold, Bennett, Bowles, E. Brown, R. Brown, Bruce, Chandler, Denham, Dietz, Donnermeyer, Dunn, Givhan, Graves, Head, Holbrook, Holloway, Imes, Isler, Kidd, Lewis, Mann, May, Maynard, McBee, McBrayer, McBride, O'Brien, Pearman, Priddy, Reynolds, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Turner, Whitfield.

Representative Hislope requested that his name be added as a co-sponsor of **HB 157**.

Representative Kafoglis moved that a call of the roll be taken to show co-sponsors of **HB 302**. Agreed.

The following members voted to co-sponsor **HB 302**: Representatives Adams, E. Brown, Dawahare, Graves, Kafoglis, Kenton, Kleier, Louden, Robinson, Stewart.

Orders of the Day

Representative Swinford moved that **HB 73** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the following Floor Amendment No. 1 to **HB 73**:

Amend printed copy of House Bill 73 on page 2, line 2, by striking the words "the board of directors" and substituting therefor the words "the watershed conservancy district" and by adding the following:

"(3) The board of directors shall forward a copy of the newspaper in which the audit report appeared to the state Auditor of Public Accounts.

Section 2. A new section of KRS Chapter 262 is created to read as follows:

Any watershed conservancy district which violates this Act shall be fined not less than \$50 nor more than \$500."

Agreed.

Representative Blandford moved that **HB 73** as amended be placed upon its passage.

Representative Richardson moved that the rules be suspended for the purpose of introducing an amendment to **HB 73**.

On the roll call the vote was yeas 40-Allen, Beshear, Blythe, Bowles, E. Brown, R. Brown, Burch, Davis, DeMarcus, Gay, Guenther, Hancock, Hardin, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kidd, Lewis, Lindsay, Louden, Mason, McBrayer, Morgan, Overstreet, Richardson, Robinson, Smith, Stephens, Stone, Swinford, Troop, VanHorn, Vincent, Wells, Whitfield. Nays 40-Adams, Arnold, Benson, Blandford, Brewer, Bruce, Crupper, Denham, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Head, Hurst, Imes, Kenton, King, Kleier, Little, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Reynolds, Roberts, Romines, Sale, Schmidt, Siemens, Stewart, Thomas, Turner, Wible, Yates.

The motion that the rules be suspended for the purpose of introducing an amendment was rejected.

Representative Blandford moved that **HB 73** as amended be placed upon its passage.

On the roll call the vote was yeas 89-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, G. White, J. White, Whitfield, Wible. Nays 0.

HB 73 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 73** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 137** as amended be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the following Floor Amendment No. 3 to **HB 137**:

Amend printed copy of House Bill 137, page 9, lines 10-16,

Delete lines 10-16.

Renumber subsequent sections.

Agreed.

Representative Kidd moved that **HB 137** as amended be placed upon its passage.

On the roll call the vote was yeas 91-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 0.

HB 137 as amended was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 137** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 204** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the following Floor Amendment No. 1 to **HB 204**:

Amend printed copy of **HB 204**, page 2, line 8, by deleting "(c)" and inserting in lieu thereof "(3)";

and on lines 10 and 11 by striking "*in counties containing a city of the first class*";

and on line 17 by adding "(4)" before "(3)" and by placing brackets around "(3)";

and on line 25 by adding "(5)" before "(4)" and by placing brackets around "(4)";

and on page 3, line 4, by adding "(5)" before "(5)" and by placing brackets around "(5)".

On the roll call the vote was yeas 67-Allen, Arnold, Bennett, Benson, Beshear, Blythe, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, DeMarcus, Denham, Dunn, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Turner, VanHorn, Watkins, Wells, G. White, Wible. Nays 9-Blandford, Donnermeyer, Mann, Morgan, Richardson, Stephens, Thomas, Troop, Yates.

The Floor Amendment No. 1 to **HB 204** was adopted.

Representative Dunn moved that **HB 204** as amended be placed upon its passage.

On the roll call the vote was yeas 74-Allen, Bennett, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mason, May, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Robinson, Romines, Sale, Schmaedecke, Schmidt,

Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, VanHorn, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 12-Donnermeyer, Guenthner, Holloway, Hopkins, Karem, Lewis, Mann, Morgan, Richardson, Troop, Vincent, Wells.

HB 204 as amended was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 204** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 71** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hinkle moved the adoption of the following Floor Amendment No. 1 to **HB 71**:

Amend printed copy of House Bill 71, page 1, line 3,

Before "Every", insert "(1)"

Page 1, after line 18 insert:

"(2) For the purposes of subsection (1) of this section, all school districts shall be exempt from the definition of 'every employer'."

Representative Kafoglis moved that Amendment No. 1 to **HB 71** be laid on the table.

On the roll call the vote was yeas 56-Adams, Allen, Arnold, Beshear, Blythe, Bowles, Brewer, R. Brown, Bruce, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Foster, Freeman, Gay, Graves, Guenthner, Hancock, Hardin, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Kafoglis, Lewis, Lindsay, Little, Loudon, Mason, May, McBrayer, O'Brien, Overstreet, Paxton, Reynolds, Richardson, Robinson, Sale, Schmidt, Sharpe, Smith, Stephens, Stone, Troop, Vincent, Watkins, Wells, G. White, J. White, Whitfield. Nays 30-Bennett, Benson, Blandford, Burch, Chandler, Dietz, Donnermeyer, Dunn, Givhan, Isler, Karem, Kenton, King, Kleier, Mann, Maynard, McBride, Nett, Pearman, Priddy, Quickert, Romines, Siemens, Stewart, Swinford, Thomas, Turner, VanHorn, Wible, Yates.

The motion that Floor Amendment No. 1 to **HB 71** be laid on the table was adopted.

Representative Swinford moved that **HB 52**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 52**. Agreed.

Representative Burch moved the adoption of the following Floor Amendment No. 2 to **HB 52**:

Amend printed copy of House Bill 52, page 2, lines 12 and 13,

By deleting the words: "the reverse side of"

And on page 3, line 14, by deleting the words: "the reverse side of"

And on page 4 by adding a new section as follows: *The provisions of this Act shall become effective on January 1, 1975.*

Agreed.

Representative Burch moved that the rules be suspended to introduce a floor amendment.

On the roll call the vote was yeas 76-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kidd, Kleier, Lewis, Little, Mann,

Mason, May, Maynard, McBee, McBride, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 4-Bowles, Karem, King, Pearman.

The motion that the rules be suspended for the purpose of introducing an amendment was adopted.

Representative Burch moved the adoption of the following Floor Amendment No. 4 to **HB 52**:

Amend printed copy of House Bill 52, page 4, by adding after line 21 a new section as follows:

Section 3.

For the purposes of the administration of this Act, there is hereby appropriated to the Department of Transportation for fiscal year 1974-75 the sum of fifty-eight hundred dollars (\$5,800), and for fiscal year 1975-76, the sum of twenty-eight hundred dollars (\$2,800).

Agreed.

Representative Burch moved that **HB 52** as amended be placed upon its passage.

On the roll call the vote was yeas 93-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 52 as amended was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 52** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HB 52**. Agreed.

The following members voted to co-sponsor **HB 52**: Representatives Adams, Allen, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, E. Brown, R. Brown, Bruce, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, McBee, McBrayer, Nett, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Whitfield, Wible, Yates.

Announcements

Representative VanHorn filed Floor Amendment No. 1 to **HB 164**.

Representative Swinford filed Floor Amendment No. 1 to **HB 145**.

Representative Mann filed Floor Amendment No. 1 to **HB 174**.

Representative Schmidt filed Floor Amendment No. 1 to **HB 244**.

Representative Mason filed Floor Amendment No. 2 to **HB 164**.

Representative Allen requested that his name be added as a co-sponsor of **HB 157**.

Representative Hellard moved that the rules be suspended for Introduction of a Resolution. Agreed.

Introduction of Bills and Resolutions

HJR 28, by Representative Hellard: A JOINT RESOLUTION directing the Legislative Research Commission to cause to be conducted a study of littering problems in Kentucky and feasible solutions applicable thereto.

Announcements

Representative Lindsay announced a public hearing on **HB 21** at 9:00 A.M. on January 31, 1974 in the Court of Appeals Court Room.

Representative Siemens announced a hearing at 10:00 A.M., January 29, 1974, on **HB 150** in the Second Floor Hearing Room.

Representative Bowles requested that his name be added as a co-sponsor of **HB 157**.

Adjournment

Representative Swinford moved that the House adjourn until 10:30 A.M., Friday, January 25, 1974.

On the roll call the vote was yeas 72-Arnold, Benson, Beshear, Bowles, Brewer, E. Brown, Bruce, Chandler, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Wells, J. White, Wible, Yates. Nays 0.

The motion to adjourn to adjourn was adopted.

FRIDAY, JANUARY 25, 1974

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by Father Carl C. Schaffer, Church of the Good Shepherd, Frankfort.

The roll was called. All present except Representatives Harris, McBrayer, McGill and Watkins.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following Representatives filed excuses: Representatives Harris, McBrayer, McGill and Watkins.

Representative Hughes moved that the reading of the Journal of January 24, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 332, by Representatives R. Brown, Stephens, Denham and Little: AN ACT relating to liability to trespassers.

HB 333, by Representative Richardson: AN ACT relating to wills and estates.

HB 334, by Representative Overstreet: AN ACT proposing to amend the Constitution of Kentucky relating to the Legislative Department.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 328, HR 28.**

Education: **HB 327, HB 329.**

Elections and Constitutional Amendments: **HB 326.**

Highways and Traffic Safety: **HR 26.**

Judiciary: **HB 325, HB 330, HJR 24.**

Public Utilities and Transportation: **HB 331, HR 22.**

State Government: **HR 27.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 97, HB 228.**

Report of Committees

The Committee on Rules reported **HB 3** with Committee Substitute attached thereto, **HB 203** with Committee Amendment attached thereto, **HB 275** with Committee Substitute attached thereto, **HB 65** with Committee Amendment attached thereto, and **HB 145** have been posted for passage in Orders of the Day, January 28, 1974.

Calendar

HB 236 with Committee Amendment attached thereto, **HB 26, HB 34, HB 248, HB 104, HB 135, HB 45, HB 213, HB 227**, and **SB 52** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 23, SB 30, SB 42**, and **HB 184** with Amendment.

Speaker Blume presiding.

Senate Message

Announcing passage of **HB 28, HJR 13.**

Report on Enrolled Bills

The Committee on Enrollment reported **HJR 13** has been examined and found correctly enrolled. **HJR 13** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HJR 13 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Kafoglis requested that his name be added as a co-sponsor of **HB 22**. Agreed.

Representative Robinson moved that the Rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 335, by Representatives Robinson, Holloway, Hardin, Hislope, Davis, Schmaedecke, Guenther, Overstreet, Schmidt, Gay, Imes, Hopkins, Holbrook, Brewer, and Allen: AN ACT relating to higher education.

Motions, Petitions and Communications

Representative Robinson moved that a call of the roll be taken to show co-sponsors of **HB 335**.

The following members voted to co-sponsor **HB 335**: Representatives R. Brown, Burch, Dawahare, Gay, Hislope, Holbrook, Holloway, Hopkins, Lindsay, May, Robinson, Schmaedecke, Schmidt, Sharpe, Stewart, Stone, Turner, VanHorn, Vincent, J. White.

Representative Vincent moved the adoption of the following Legislative Citation No. 16:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Edmonson County High School basketball team for its 92-90 win over Owensboro High School on Friday, January 18, 1974, and extends best wishes for continued success. (Sponsored by Representative Vincent)

Agreed.

Orders of the Day

Representative Swinford moved that **HB 39** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative G. White moved that **HB 39** be placed upon its passage.

On the roll call the vote was yeas 81-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Imes, Kafoglis, Kareem, Kenton, King, Kleier, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Stone, Swinford, Troop, Turner, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 3-Richardson, Stephens, VanHorn.

HB 39 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 39** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representatives Isler and Kidd requested that they be recorded as voting "aye" on **HB 39**.

Representative Swinford moved that **HB 70** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Siemens moved that **HB 70** be placed upon its passage.

On the roll call the vote was yeas 57-Bennett, Benson, Beshear, Blandford, Blume, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Donnermeyer, Dunn, Gay, Givhan, Hancock, Hardin, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Isler, Kenton, Kidd, King, Lewis, Lindsay, Mann, Mason, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sharpe, Siemens, Stephens, Swinford, Troop, VanHorn, Wells, G. White, Whitfield, Wible, Yates. Nays 21-Adams, Allen, Blythe, Crupper, DeMarcus, Foster, Freeman, Graves, Guenther, Hislope, Imes, Kafoglis, Karem, May, Rattliff, Robinson, Sale, Stewart, Stone, Turner, Vincent.

HB 70 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 70** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 105**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Schmidt moved the adoption of the Committee Substitute to **HB 105**. Agreed.

Representative Schmidt moved that **HB 105**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 88-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays-0.

HB 105, by way of Committee Substitute, was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 105**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 159** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 164** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Mason moved the adoption of the following Floor Amendment No. 2 to **HB 164**:

Amend printed copy of House Bill 164 on page 2, line 25, by:

Delete the word "revoke" and substitute therefor the word "*suspend*"

Page 2, line 26, delete the period after the word license and insert "*until such time as he shall have completed the annual course of study required by this Act.*"

On the roll call the vote was yeas 18-Adams, Davis, Freeman, Gay, Hinkle, Hislope, Hopkins, Hughes, Hurst, Kidd, Kleier, Lindsay, Mason, Robinson, Stephens, Troop, Turner, VanHorn. Nays 59-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Holbrook, Holloway, Imes, Isler, Kafoglis, Kareem, Kenton, Lewis, Little, Mann, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Stone, Swinford, Whitfield, Wible, Yates.

The Floor Amendment No. 2 to **HB 164** was rejected.

Representative Priddy moved that **HB 164** be placed upon its passage.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Stone, Swinford, Turner, VanHorn, Wells, J. White, Whitfield, Wible, Yates. Nays 4-Robinson, Stephens, Troop, Vincent.

HB 164 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 164** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative Richardson moved that the House adjourn until 4:00 P.M., Monday, January 28, 1974.

On the roll call the vote was yeas 35-Adams, Allen, Blandford, Brewer, R. Brown, Bruce, Dawahare, Denham, Freeman, Gay, Givhan, Guenthner, Hinkle, Hislope, Holbrook, Hopkins, Imes, Kafoglis, Kareem, Kenton, Lindsay, Mann, Mason, Maynard, Morgan, Overstreet, Pearman, Richardson, Roberts, Robinson, Turner, Wells, G. White, J. White, Yates. Nays 39-Arnold, Bennett, Benson, Beshear, Blume, Blythe, E. Brown, Burch, Chandler, Clarke, Crupper, DeMarcus, Donnermeyer, Dunn, Foster, Graves, Hancock, Hardin, Hellard, Holloway, Hurst, Isler, King, Kleier, May, McBride, Nett, O'Brien, Paxton, Priddy, Quickert, Rattliff, Reynolds, Romines, Sale, Sharpe, Stephens, VanHorn, Wible.

The motion to adjourn was rejected.

Representative Swinford moved that **HB 173**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hinkle moved the adoption of Committee Amendment No. 1 to **HB 173**. Agreed.

Representative Reynolds moved that **HB 173** as amended be placed upon its passage.

On the roll call the vote was yeas 85-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, VanHorn, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HB 173 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 173** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 174**, with Floor Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 222**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 222**. Agreed.

Representative Clarke moved that **HB 222** as amended be placed upon its passage.

On the roll call the vote was yeas 83-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, May, Maynard, McBee, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, VanHorn, Vincent, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HB 222 as amended was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 222** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 244** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 336, by Representatives Clarke, Beshear, Hellard, Karem, Schmidt, Benson, Denham, Kafoglis, Wells, Graves, McBride and DeMarcus: AN ACT relating to the appropriation act and financial administration.

HCR 29, by Representatives Priddy, Holloway, King, Dunn, Yates, Pearman, Burch, Bennett, Chandler, Kleier, Romines, Imes, Schmidt, Guenther, Foster, Rattliff, O'Brien, DeMarcus, Hopkins, Watkins, Stone, Givhan, Stewart, Sharpe, Hardin, Smith, Denham, Arnold, Hurst, May, Davis, Robinson, Brewer, Hislope, Overstreet, Bowles, Gay and Maynard: A CONCURRENT RESOLUTION applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 35, HB 106, HB 150, HB 264.**

Highways and Traffic Safety: **HB 212, HB 215, HB 238, HB 243, HR 19.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Highways and Traffic Safety: **HB 134**.

Announcements

Representative Swinford moved that the rules be suspended for requests to co-sponsors Bills. Agreed.

Representatives Robinson, Hopkins, Vincent, Rattliff, Mann, and Donnermeyer requested that their names be added as co-sponsors of **HB 173**.

Representative Hopkins requested that he be recorded as voting "yea" on **HB 39**.

Representative Hopkins requested that he be recorded as voting "nay" on **HB 70**.

Representatives Hopkins, Hislope and Guenthner requested that their names be added as co-sponsors of **HB 222**.

Representative King requested that his name be added as a co-sponsor of **HB 70**.

Representative Donnermeyer requested that a call of the roll be taken to show co-sponsors of **HB 222**.

The following members voted to co-sponsor **HB 222**: Representatives Arnold, Bennett, Benson, Blythe, R. Brown, Burch, Chandler, Davis, DeMarcus, Donnermeyer, Dunn, Foster, Guenthner, Hardin, Hinkle, Hopkins, Hurst, Imes, Isler, Kleier, Mann, Mason, Overstreet, Priddy, Schmaedecke, Schmidt, Sharpe, Stone, Thomas, VanHorn, Vincent, J. White.

The following meetings were announced:

Committee on State Government: Tuesday, January 29 at 1:00 P.M., Room 307.

Committee on Public Utilities and Transportation: Thursday, January 31, 1974, 10:00 A.M., Room 305A.

Committee on Counties and Special Districts: Thursday, 1:00 P.M., Room 305.

Representative Kafoglis announced a public hearing on **HB 64** in Room 327 on January 29, 1974 at 10:00 A.M.

Representative Graves announced a hearing on **HB 21** Committee Substitute in Court Room on January 31, 1974 at 9:00 A.M.

Committee on Health and Welfare: Thursday, January 31, 1:00 P.M., Room 307.

Adjournment

Representative Richardson moved that the House adjourn until 4:00 P.M., Monday, January 28, 1974.

On the roll call the vote was yeas 71-Adams, Arnold, Bennett, Benson, Beshear, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, G. White, J. White, Whitfield, Wible, Yates. Nays 4-Clarke, Hellard, Paxton, Schmidt.

The motion to adjourn was adopted.

MONDAY, JANUARY 28, 1974
SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Revenend Tom Franklin, First Christian Church, Owenton, Kentucky.

The roll was called. All present except Representatives Hislope, Imes and McGill.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following representatives filed excuses: Representatives Hislope, Imes and McGill.

Representative Hughes moved that the reading of the Journal of January 25, 1974, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of SB 75, HB 59.

Introduction of Bills and REsolutions

HB 337, by Representative Hinkle: AN ACT relating to motor vehicle operator's licenses.

HB 338, by Representative Hinkle: AN ACT relating to Teachers Retirement.

HB 339, by Representative Hinkle: AN ACT relating to the Teacher's Retirement System of the Commonwealth of Kentucky.

HB 340, by Representative DeMarcus: AN ACT relating to motor vehicles.

HB 341, by Representative Beshear: AN ACT relating to corporations.

HB 342, by Representatives Chandler, Dunn, Sharpe, Romines and Nett: AN ACT relating to arrest records.

HB 343, by Representative Quickert: AN ACT relating to fiduciary investment companies.

HB 344, by Representative Freeman: AN ACT relating to membership in the Teachers' Retirement System.

HB 345, by Representative Quickert: AN ACT relating to private security services.

HB 346, by Representative Hopkins: AN ACT relating to state depository banks.

HB 347, by Representatives Schmidt, Gay and DeMarcus: AN ACT relating to property taxes.

HB 348, by Representative Quickert: AN ACT providing for judicial review of administrative orders.

HB 349, by Representative VanHorn: AN ACT relating to Toll Roads.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Education: **HB 335**.

Elections and Constitutional Amendments: **HB 334, HR 29**.

Judiciary: **HB 332, HB 333**.

State Government: **HB 336**.

Report of Committees

The Committee on Rules reported **HB 24, HB 25** with Committee Amendment attached thereto, **HB 86, HB 22, HB 34, HB 26, HB 45, HB 135, HB 248, SB 52** have been posted for passage in Orders of the Day, January 29, 1974.

The Committee on Rules reported **HB 236**, with Committee Amendment attached thereto, has been recommitted to the Committee on Judiciary for the purpose of comparison with other similar proposed legislation.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 318, HB 327, HB 329, HR 16**.

Health and Welfare: **SR 9**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 28** has been examined and found correctly enrolled. **HB 28** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 28 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Wible moved the reading of Legislative Citations. Agreed.

Representative Wible moved the adoption of the following Legislative Citation No. 18:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Owensboro for its selection as an All Kentucky City of 1973 and extends congratulations to this city on being named to the All Kentucky City Hall of Fame as a result of winning this honor for three consecutive years. This body acknowledges that Owensboro is now one of only two cities in this Commonwealth to be named an All Kentucky City for three consecutive years and commends the Chamber of Commerce and citizens of Owensboro for attaining this honor. (Sponsored by Representative Wible)

Agreed.

Representative Hughes moved the adoption of the following Legislative Citation No. 19:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Southern High School for being the Jefferson County Football champions of 1973. This body commends the members of the football team, Coach Henderson Wilson and Coaches Thomas Cosman, Russell Gibson and Steve Stallings for this accomplishment. (Sponsored by Representative Hughes)

Agreed.

Representative Lindsay moved the adoption of the following Legislative Citation No. 17:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Henderson for its selection as an All Kentucky City of 1973. This body commends the Henderson-Audubon Area Chamber of Commerce for its efforts in acquiring such an honor for Henderson on the first try and further commends those individuals, firms, and corporations which participated in Henderson's presentation to the Awards Committee of the Kentucky Chamber of Commerce. (Sponsored by Representative Lindsay)

Agreed.

Representative McBride moved that the House adjourn today in honor of Representative Richardson.

Representative Beshear moved that Representative McBride's motion be laid on the table.

On the roll call the vote was yeas 34-Benson, Beshear, Blandford, Brewer, Burch, Chandler, Denham, Dunn, Foster, Guenthner, Hancock, Hopkins, Hurst, King, Little, Loudon, Mann, May, Maynard, McBee, Nett, Overstreet, Pearman, Paxton, Rattliff, Richardson, Roberts, Sale, Schmidt, Stewart, Stone, Turner, G. White, Wible. Nays 33-Arnold, Blythe, Bruce, Crupper, Dawahare, DeMarcus, Freeman, Givhan, Graves, Hardin, Harris, Head, Hellard, Hinkle, Hughes, Kafoglis, Karem, Kenton, Kidd, Lindsay, Mason, McBrayer, McBride, Priddy, Quickert, Robinson, Romines, Schmaedecke, Sharpe, Siemens, Troop, VanHorn, Whitfield.

The motion to table Representative McBride's motion was rejected.

On the roll call the vote was yeas 62-Arnold, Bennett, Benson, Blandford, Blythe, Bowles, Brewer, Bruce, Burch, DeMarcus, Denham, Dunn, Foster, Freeman, Givhan, Graves, Guenthner, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mason, May, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Roberts, Robinson, Romines, Schmaedecke, Sharpe, Smith, Stephens, Stewart, Stone, Troop, VanHorn, Vincent, Watkins, Whitfield, Yates. Nays 19-Adams, Beshear, Blume, R. Brown, Chandler, Crupper, Dawahare, Dietz, Donnermeyer, Hancock, Hopkins, Mann, Paxton, Richardson, Schmidt, Siemens, Turner, G. White, Wible.

The motion that when the House adjourns today it do so in honor of Representative Richardson was adopted.

Representative Beshear moved the adoption of the following Legislative Citation No. 20:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Bryan Station High School Defenders for winning the Louisville Invitational Tournament of 1974. This body commends the members of the basketball team and Coach Bob Barlow for their winning efforts and extends best wishes for continued success. (Sponsored by Representative Beshear)

On the roll call the vote was yeas 63-Bennett, Benson, Beshear, Blandford, Blume, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dunn, Foster, Graves, Guenthner, Hancock, Harris, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Kafoglis, Kenton, Kidd, King, Lindsay, Little, Loudon, Mann, Mason, May, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Stone, Troop, VanHorn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 7-Adams, Dawahare, Freeman, Gay, Hardin, Karem, Smith.

The motion that Representative Beshear's Legislative Citation be adopted was adopted.

The Speaker announced that **HR 28** has been taken from the Committee on Agriculture and Natural Resources and reassigned to the Committee on Labor.

Representative Dunn requested that his name be added as a co-sponsor of **HB 135**.

Representative McBrayer requested that his name be added as a co-sponsor of **HB 65**.

Representative McBrayer requested that his name be removed as a co-sponsor of **HB 307**.

Orders of the Day

Representative Swinford moved that **HB 159** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Quickert moved that **HB 159** be placed upon its passage.

On the roll call the vote was yeas 88-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 0.

HB 159 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 159** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 174**, with Floor Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 244** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Schmidt moved the adoption of the following Floor Amendment No. 1 to **HB 244**:

Amend printed copy of House Bill No. 244 on page 1, lines 3, 4, 5 and 6,

On line 3 after the word "person" delete the following:

[, except adult employes of the school system who smoke in a room on the school premises designated by the superintendent or principal for the purpose,]

and on line 6 after the word "smokes" delete the following:

[a cigarette]

Representative Schmidt moved that **HB 244** as amended be placed upon its passage.

On the roll call the vote was yeas 69-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clarke, Crupper, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Freeman, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, Maynard, McBee, Morgan, O'Brien, Pearman, Priddy, Quickert, Reynolds, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Troop, Turner, VanHorn, Vincent, Watkins, Wells, J. White, Whitfield, Yates. Nays 22-Bruce, Clapp, Davis, DeMarcus, Foster,

Givhan, Harris, Hughes, Lindsay, Little, McBrayer, McBride, Nett, Overstreet, Paxton, Rattliff, Richardson, Roberts, Sale, Stone, G. White, Wible.

HB 244 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 244** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 3**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the Committee Substitute to **HB 3**. Agreed.

Representative Graves moved that **HB 3**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 51-Arnold, Bennett, Benson, Beshear, Blume, Blythe, Chandler, Clarke, DeMarcus, Donnermeyer, Dunn, Freeman, Gay, Givhan, Graves, Hellard, Hinkle, Holbrook, Hopkins, Isler, Kafoglis, Kareem, Kenton, Kidd, Mann, Maynard, McBee, McBrayer, McBride, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Siemens, Smith, Stephens, Swinford, VanHorn, Vincent, Watkins, G. White, Whitfield, Wible. Nays 30-Adams, Bowles, Brewer, R. Brown, Burch, Crupper, Davis, Dawahare, Denham, Foster, Hancock, Hardin, Harris, Holloway, Hughes, King, Lewis, Little, May, Morgan, Nett, Rattliff, Sharpe, Stewart, Stone, Thomas, Troop, Turner, Wells, Yates.

HB 3, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 3**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 65**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 145** be taken from Orders of the Day and read for the third time by title only.

Representative Maynard moved the adoption of the following Floor Amendment No. 1 to **HB 145**:

Amend printed copy of House Bill 145 on page 1, by adding after line 3 the following:

"and payment of an additional license fee of ten dollars (\$10.00),"

and on page 2, line 6, by deleting the word "revenue" and adding in lieu thereof the word "transportation"

and on page 2 by adding after line 20 a new subsection as follows:

(5) For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and to the additional license fee as provided for in this section the additional sum of one dollar for each registration under this section. A like amount shall be charged for the reissuance of such special license plate after the sale or transfer of the vehicle to which it was originally attached.

and on page 2 by deleting the numeral "(5)" and inserting in lieu thereof the numeral "(6)"

and on page 2, line 21, by deleting the words "commissioner of revenue" and inserting in lieu thereof the words "secretary of transportation"

Agreed.

Representative Maynard moved that **HB 145** as amended be placed upon its passage.

On the roll call the vote was yeas 53-Adams, Arnold, Bennett, Blandford, Blume, Blythe, Bowles, Brewer, Burch, Chandler, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Guenthner, Harris, Hinkle, Kafoglis, Kareem, Kenton, Kleier, Little, Loudon, Mann, Maynard, McBee, O'Brien, Priddy, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Vincent, Watkins, Whitfield, Wible, Yates. Nays 22-Benson, Beshear, Bruce, Clapp, Clarke, Givhan, Hancock, Hellard, Holbrook, Holloway, Hopkins, King, Lewis, Lindsay, McBrayer, McBride, Overstreet, Paxton, Richardson, Troop, VanHorn, G. White.

HB 145 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 145** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 203**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative McBride moved the adoption of Committee Amendment No. 1 to **HB 203**. Agreed.

Representative McBride moved that **HB 203** as amended be placed upon its passage.

On the roll call the vote was yeas 81-Adams, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 5-Guenthner, Holloway, Sharpe, Thomas, VanHorn.

HB 203 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 203** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 275**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the Committee Substitute to **HB 275**. Agreed.

Representative Bruce moved that **HB 275**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 275, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 275**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 59** has been examined and found correctly enrolled. **HB 59** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Senate Message

Announcing passage of **SB 48**, **SB 81** and **SB 83**.

Speaker Pro Tempore Paxton presiding.

Announcements

Representative G. White filed Floor Amendment No. 2 to **HB 65**.

Representative Clarke filed Floor Amendment No. 1 to **HB 22**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 350, by Representative Morgan: AN ACT relating to state legislative districts.

HB 351, by Representatives Stephens, R. Brown, Lewis, Benson, Kenton and Hancock: AN ACT relating to motor vehicle registration.

HB 352, by Representatives Swinford, Hellard and Head: AN ACT relating to strip mining.

HB 353, by Representative Lewis: AN ACT relating to offenses committed by juveniles.

HB 354, by Representative Burch: AN ACT changing the classification of the city of West Buechel in Jefferson County.

HB 355, by Representative Clarke: AN ACT relating to inheritance tax.

HB 356, by Representative Swinford: AN ACT relating to the Kentucky Farm Development Authority.

HB 357, by Representative Schmaedecke: AN ACT relating to divorce.

HB 358, by Representative Gay: AN ACT relating to toll roads and revenue sharing.

HB 359, by Representative Harris: AN ACT relating to the dissolution of cooperative associations.

HB 360, by Representative Kafoglis: AN ACT relating to financial disclosure.

HJR 30, by Representatives Burch, Bruce, Hughes, May, Maynard and Blandford: A JOINT RESOLUTION directing the Council on Public Higher Education to develop and implement a program for placing Kentucky students in schools of veterinary medicine.

Posting of Bills and Resolutions for Consideration

Labor and Industry: **HR 28**.

Highways and Traffic Safety: **HB 42**.

State Government: **HB 217** and **HB 336**.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Tuesday, January 29, 1974.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blythe, Bowles, Brewer, R. Brown, Bruce, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Givhan, Graves, Guenther, Hardin, Harris, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Hellard.

The motion to adjourn was adopted.

TUESDAY, JANUARY 29, 1974

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Imes, McGill and Yates.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Imes, McGill and Yates.

Representative Hughes moved that the reading of the Journal of January 28, 1974, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

HB 59 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 361, by Representative Quickert: AN ACT relating to bond of railroad policemen.

HB 362, by Representatives Vincent, Reynolds and Stone: AN ACT relating to public school employees.

HB 363, by Representative Hinkle: AN ACT relating to public school employee certification.

HB 364, by Representative Roberts: AN ACT relating to purchasing.

HB 365, by Representatives Harris and Dunn: AN ACT relating to rural electric and rural telephone cooperative corporations.

HB 366, by Representatives Hellard, Beshear, Clarke, Denham, Hancock, Kafoglis, Kenton, Overstreet, Richardson, VanHorn and G. White: AN ACT relating to lobbyists.

HB 367, by Representatives Stone, Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Hellard, Hinkle, Holbrook, Holloway, Hurst, Karem, Kidd, Kleier, Little, Loudon, Mann, Mason, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Paxton, Quickert, Richardson, Roberts, Romines, Schmaedecke, Sharpe, Stephens, VanHorn, Vincent, Watkins, J. White and Wible: AN ACT relating to actions for wrongful death.

HJR 31, by Representative Hinkle: A JOINT RESOLUTION relating to higher education.

HR 32, by Representative Hinkle: A RESOLUTION commending units and members of the 100th Division (Training), United States Army Reserve, for distinguished service to the Nation and the Commonwealth.

HB 368, by Representatives Blume and Benson: AN ACT relating to equal rights for men and women.

HB 369, by Representative Morgan: AN ACT relating to state retirement systems.

HB 370, by Representatives Stephens, R. Brown, Hancock and Kidd: AN ACT relating to prices of petroleum products.

HB 371, by Representative Gay: AN ACT relating to education.

HB 372, by Representatives Kenton, Benson and Hellard: AN ACT relating to social workers.

HB 373, by Representative Gay: AN ACT relating to Teachers' Retirement System and establishing a tax to provide additional funding of the Teachers' Retirement System.

HB 374, by Representatives Kleier, Nett and Quickert: AN ACT relating to income tax preparers.

HB 375, by Representatives Hinkle, Bruce and VanHorn: AN ACT relating to motor vehicle operator's licenses.

HB 376, by Representatives Kenton, Arnold and Karem: AN ACT relating to dental laboratories and dental laboratory technicians.

HB 377, by Representatives Kenton, Arnold, Imes and Karem: AN ACT relating to eligibility for a dental hygienist's license examination.

HB 378, by Representative McBee: AN ACT to prohibit the unauthorized reproduction and distribution of certain recorded devices for sale.

HB 379, by Representative Schmaedecke: AN ACT relating to adoptions.

HB 380, by Representative Kafoglis: AN ACT relating to elections.

HB 381, by Representative Freeman: AN ACT relating to motor vehicle operator's licenses.

HB 382, by Representatives Kenton and Robinson: AN ACT relating to the membership of the Board of Nursing Education and Nurse Registration.

HB 383, by Representatives Kenton, Karem and King: AN ACT relating to the manufacture, sale and exhibition of obscene materials.

HB 384, by Representative Bruce: AN ACT relating to planning units.

HB 385, by Representatives Hinkle and Van Horn: AN ACT relating to textbooks.

HB 386, by Representatives Quickert and Kidd: AN ACT relating to civil rights.

HB 387, by Representative Wible: AN ACT relating to insurance.

HB 388, by Representatives Wible and Blandford: AN ACT relating to counties containing a population of 75,000 or more.

HB 389, by Representatives Swinford, Head and Hellard: AN ACT relating to mining.

HB 390, by Representative Swinford: AN ACT relating to motor vehicles and boats or boating.

HB 391, by Representative Swinford: AN ACT relating to the issuing of driver's licenses to epileptics.

HB 392, by Representative Swinford: AN ACT relating to motor carriers.

HB 393, by Representative Swinford: AN ACT to revise and correct the Kentucky Revised Statutes.

HJR 33, by Representative Burch: A JOINT RESOLUTION directing the Secretary of State to place the question of abortion on the ballot of the next regular election.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 352, HB 356, HB 359, HR 30.**

Appropriations and Revenue: **HB 358.**

Banking and Insurance: **HB 343, HB 346.**

Business Organizations and Professions: **HB 341, HB 345.**

Cities: **HB 354.**

Counties and Special Districts: **HB 347.**

Education: **HB 338, HB 339, HB 344.**

Elections and Constitutional Amendments: **HB 360.**

Highways and Traffic Safety: **HB 337, HB 340, HB 349, HB 351.**

Judiciary: **HB 342, HB 353, HB 355, HB 357.**

Public Utilities and Transportation: **HB 348.**

State Government: **HB 350.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 128, HB 207.**

Highways and Traffic Safety: **HR 26, HB 340.**

Public Utilities and Transportation: **HB 76, HB 82, HB 178, HB 321, HB 331, HR 9.**

Judiciary: **HB 7, HB 12, HB 282, HB 285, HB 293, HB 299, HB 301, HB 303, HB 313, HB 317, HB 320, HB 322, HB 325, HB 330, HB 332, HB 333, HR 24.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Agriculture and Natural Resources: **HB 17.**

Judiciary: **SB 10.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 112** and **HB 123** with the expression of opinion that the same should not pass.

The Committee on Cities reported **HB 98, HB 108, and HB 117** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 98, AN ACT relating to cities.

WHEREAS, the board of directors of the Kentucky Municipal League has approved the principle that all cities should have budgets; and

WHEREAS, Kentucky law requires budgeting for certain classes of municipalities and not for others; and

WHEREAS, it is good business practice for all cities to have budgets; and

WHEREAS, it is desirable that all cities adopt budgets so that the citizens may be informed as to how their tax money is spent; and

WHEREAS, it would be beneficial to all cities and citizens of the Commonwealth to have available in one central area copies of all city budgets for statistical purposes;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 82 is created to read as follows:

As used in this Act:

(1) "Budget" means a detailed estimate for the ensuing fiscal year of the revenue of the city from each source and a plan for its use, containing an itemized statement of appropriations for each department or other fiscal unit of the city.

(2) "Budget Officer" means the chief executive officer or a person officially designated as such by the chief executive officer.

Section 2. A new section of KRS Chapter 82 is created to read as follows:

(1) The budget officer of each city shall submit a budget to the governing body of the city not less than thirty days prior to the beginning of the fiscal year of the city. The budget shall be advertised in accordance with the provisions of KRS 424.240.

(2) Prior to the beginning of its fiscal year, the governing body of each city shall enact a budget ordinance approving a budget and appropriating funds to each department or other fiscal unit of the city for its operation for the ensuing fiscal year.

(3) In the event the budget officer is unable to submit a budget thirty days prior to the beginning of the fiscal year or the governing body of the city is otherwise unable to enact a budget ordinance prior to the beginning of the fiscal year, the governing body shall by ordinance appropriate for current expenditures of each department or other fiscal unit.

Any such ordinance shall be enacted prior to the period covered and shall set forth reasons for delay in enactment of the budget ordinance. In no event shall the budget ordinance be enacted more than 90 days after the beginning of a city's fiscal year.

Section 3. A new section of KRS Chapter 82 is created to read as follows:

(1) The governing body of a city may amend the budget ordinance at any time to transfer unused appropriations from one department or other fiscal unit to another, to appropriate available revenues not

previously included in the budget and otherwise to account for the actual revenues and expenditures of the city.

(2) Each city shall maintain a system of accounts to facilitate budget control.

Section 4. A new section of KRS Chapter 82 is created to read as follows:

(1) No budget ordinance shall become effective until a copy of the ordinance and budget has been mailed to the State Local Finance Officer. The budget will be deemed mailed when it is placed in a sealed envelope addressed to the State Local Finance Officer and mailed to him at his office in Frankfort, Kentucky, by certified mail. The post office mailing receipt shall be retained by the budget officer of the city as evidence of compliance with this Act.

(2) The Department for Finance and Administration at the request of a city may provide technical and advisory assistance for the carrying out of the purpose of this Act.

Section 5. A new section of KRS Chapter 82 is created to read as follows:

A city shall not be liable for any obligation incurred not in accordance with a budget and appropriation pursuant to this Act.

Section 6. A new section of KRS Chapter 82 is created to read as follows:

This Act shall become effective with respect to budgets for any fiscal period beginning on or after January, 1975.

HB 108, AN ACT relating to condominium projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.810 is amended to read as follows:

As used in KRS 381.805 to 381.910, unless the context otherwise requires:

(1) "Apartment" means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare;

(2) "Condominium" means the ownership of single units in a multiple unit structure with common elements;

(3) "Condominium Project" means a real estate condominium project; a plan or project whereby *two* [four] or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale;

(4) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof who owns an apartment within the building;

(5) "Council of co-owners" means all the co-owners as defined in subsection (4) of this section;

(6) "Developer" means a person who undertakes to develop a real estate condominium project;

(7) "General common elements" means and includes:

(a) The land whether leased or in fee simple, on which the building stands;

(b) The foundations, main walls, roof, halls, lobbies, stairways, and entrances and exits or communication ways;

(c) The basements, flat roofs, yards, and gardens, except as otherwise provided or stipulated;

(d) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(e) The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like;

(f) The elevators, garbage incinerators and, in general all devices or installations existing for common use; and

(g) All other elements of the building rationally of common use or necessary to its existence, upkeep and safety;

(8) "Limited common elements" means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like;

(9) "Majority of co-owners" means fifty-one per cent of the co-owners;

(10) "Master deed" or "master lease" means the deed or lease recording the property of the horizontal property regime;

- (11) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereto;
- (12) "Property" means and includes the land whether leasehold or in fee simple and the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto;
- (13) "To record" means to record in accordance with KRS Chapter 382, or other recording statutes;
- (14) All pronouns used in KRS 381.805 to 381.910 include the male, female and neuter genders and include the singular or plural numbers, as the case may be.

HB 117, AN ACT relating to city water supply systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

Any city that owns or operates a water supply system may extend the system into, and furnish and sell water to any person within, any territory contiguous to the city [that lies within fifteen miles of the corporate limits], and may install within that territory necessary apparatus. For this purpose the city may condemn or otherwise acquire franchises, rights and rights of way, as private corporations may do.

The Committee on Education reported **HB 47**, **HB 56** and **HB 60** without expression of opinion.

The Committee on Education reported **HB 41** with Committee Amendment attached thereto, **HB 237**, and **HB 262** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to exceptional children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.200 is amended to read as follows:

(1) "Exceptional children" means children who differ in one or more respects from average or normal children in physical, mental, emotional or social characteristics and abilities to such a degree that it is impractical or impossible for them to benefit from, or participate in, the regular or usual facilities or classroom programs of the public schools in the districts in which they reside. These children's educational needs require a modification of the usual classroom program in order for them to obtain the maximum of their abilities and capabilities. These children include, but are not limited to, those children hereafter described in this section as well as the neurologically impaired, the intellectually gifted, the emotionally disturbed, [the functionally retarded,] children with learning disabilities, communications disorders and those children who are multiply handicapped.

(2) "Physically handicapped children" means children, other than those with a speech defect, of sound mind who suffer from any physical disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified educational program.

(3) "Speech defective children" means children whose speech has been diagnosed by a speech correctionist as deviating or differing from average or normal speech to the extent of hindering adequate communication and requiring specialized instruction for improvement or correction of the handicap.

(4) "Educable mentally handicapped children" means children who because of retarded intellectual development, as determined by recognized standardized tests, are incapable of being educated profitably and efficiently through ordinary classroom instruction but whose intellectual ability would indicate a degree of scholastic attainment with the benefit of special educational methods, materials, and facilities.

(5) "Trainable mentally handicapped children" are mentally handicapped children who, because of retarded intellectual development, are incapable of being educated properly and efficiently through ordinary classroom instruction or special education facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness.

(6) *"Exceptional children" means all persons under twenty-one (21) years of age as herein defined.*
 ["Children" means all persons under twenty-one (21) years of age.]

(7) "Special educational facilities" means special schools, special classes, and special instruction. All special education facilities shall be under the supervision of the superintendent of public instruction.

(8) "Children with learning disabilities" are those children who have a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(9) "Related services" means those educational services for the exceptional child and his family that ordinarily cannot be delivered through the public educational system.

The Committee Amendment to **HB 41** is as follows:

Amend printed copy of House Bill 41 on page 1, line 15, by adding after the word impaired, "*visually impaired, hearing impaired,*"

page 1, lines 15 and 16, by deleting "the intellectually gifted,"

page 1, lines 16 and 17, by deleting "[the functionally retarded,]" and by adding "*the retarded*"

page 1, line 19, by deleting the word "multiply" and by adding in its place, the word "*multiple*"

page 2, lines 1 and 2, by deleting " , other than those with a speech defect, of sound mind"

page 4, line 3, by adding thereafter the following:

"(10) "Multiple handicapped" includes children whose known or diagnosed handicaps are determined to be any combination of this section, whose needs demand the provisions of special facilities, equipment or methods to make their educational program effective."

HB 237, AN ACT relating to higher education academic programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 164 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Lower division academic course" means any academic course offered for college or university credit which is designated as a freshman or sophomore level course by the boards of trustees of the four year state colleges and universities.

Section 2. A new section of KRS Chapter 164 is created to read as follows:

(1) Each community college of the University of Kentucky community college system may offer, within the two year academic curriculum of the college, any and all lower division academic courses offered for undergraduate credit at any and all of the four year state supported colleges and universities.

(2) All lower division academic courses offered by the community colleges shall be transferable for academic credit to any and all four year state supported colleges and universities, regardless of the number of academic credits earned by any student at one or more community college.

HB 262, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS164.020 is amended to read as follows:

The council on public higher education in Kentucky shall:

- (1) Engage in analyses and research to determine the overall needs of higher education in the commonwealth.
- (2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the commonwealth. The plans so developed shall conform to the respective functions and duties of the state colleges and universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; provided, however, that when such federal legislation requires representation on any such "single state agency" by private or non-state institutions of higher education in the state, the commission on higher education, or its successor agency, shall be considered the "single state agency" as that term may be used in such federal legislation.
- (3) Determine the amount of entrance and/or registration fees and approve the qualifications for admission to the public institutions of higher education. In determining the entrance and/or registration fees for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent.
- (4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations which shall be submitted to the governor through the department of finance not later than November 15 of each odd numbered year.
- (5) Review and approve all capital construction projects the cost of which exceeds one hundred thousand dollars approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the department of finance and/or state property and buildings commission.
- (6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.
- (7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.
- (8) Approve all graduate degree programs including all schools and degree programs for which professional, regional and/or national accreditation of the school or program is available and/or licensing or certification of the graduate are required. Review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on public higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.
- (9) Prescribe the curricula for teacher education.
- (10) *Prescribe a system for the standardization of all academic courses offered by the state colleges and universities, the community colleges, and the University of Kentucky, to provide for ease of transferability of academic course credit between and among such institutions. The system of standardization shall provide for common usage of academic course identification, by number and title, and course description for academic courses of identical or similar content and subject matter, among all state colleges and universities, community colleges, and the University of Kentucky, so that academic credit earned by a student at any such institution shall be acceptable for credit at all other such institutions.*
- (11)[(10)] Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS chapter 18 and KRS 64.640 subject to the approval of the commissioner of personnel and the commissioner of finance.
- (12)[(11)] Constitute the representative agency of the commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

The Committee on Labor reported **HB 106** with the expression of opinion that the same should not pass.

The Committee on Labor reported **HB 35** and **HR 28** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 35, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.145 is amended to read as follows:

(1) The commissioner may enter into arrangements with the appropriate agencies of other states or of the federal government, or both, for the purpose of assisting the commissioner and such agencies in the payment of benefits and the furnishing of services to unemployed or underemployed workers. Such arrangements may provide that the respective agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits; in making investigation, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the commissioner considers suitable in effectuating the purpose of these administrative arrangements.

(2) The commissioner may enter into arrangements with the appropriate agencies of other states or the federal government whereby workers performing services in this and other states for a single employing unit under circumstances not specifically provided in KRS 341.050, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states.

(3) (a) The commissioner shall participate in any arrangements for the payment of benefits on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states or the federal government which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of benefits in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding the duplicate use of wages and employment by reason of such combining. Reimbursements to another state or the federal government, paid from the fund pursuant to this subsection, shall be deemed to be benefits for the purposes of this chapter and charged to employers' reserve accounts in accordance with the provisions of subsections (2) and (3) of KRS 341.530 [to the extent of calculations made on wages paid during the base period established by KRS 341.090 and wages paid after such base period; provided, however, benefits based on a period previous to the base-wage period established by KRS 341.090 shall be charged to the pooled account]. Provided, that if the Secretary of Labor determines that the charging of reimbursements provided above is inconsistent with the requirements of the Federal Unemployment Tax Act, charges of such reimbursements shall then be made in accordance with regulations prescribed by the commission.

(b) In order that such reciprocal arrangements, when entered into, may be effectuated, wages for insured work under an employment security law of another state or of the federal government shall be deemed to be wages earned in covered employment from a subject employer for the purpose of determining his benefits under this chapter.

(4) Notwithstanding any other provision of this chapter, benefits shall not be denied or reduced to an individual solely because he files a claim in another state (or a contiguous country with which the United States has an agreement with respect to unemployment compensation) or because he resides in another state (or such a contiguous country) at the time he files a claim for benefits.

Section 2. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in section 501 (c) (3) of the U. S. Internal Revenue Code which is exempt from income tax under section 501 (a) of such code.

(2) Any nonprofit organization which, pursuant to KRS 341.070 (4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the division for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of such nonprofit organization, performed during the effective period of such election.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the division a written notice of its election within the thirty-day

period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the division not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective.

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972 may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The commissioner shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430 (2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter the division shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the commissioner shall be conclusive on the organization unless, not later than fifteen days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the commission, setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the commission shall be subject to review under the provisions of KRS 341.460 (1).

(e) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to KRS 341.300, apply to past due contributions.

(4) (a) The commissioner may, in accordance with regulations prescribed by the commission, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the division, within thirty days after the effective date of its election as a condition thereof, money equal to 3.2 [two] percent of the organization's *taxable* [total] wages paid for employment as defined in KRS 341.050 (1) (e) for the four calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the deposit shall be as determined by the commissioner.

(b) Money deposited in accordance with this subsection shall be retained by the division in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The division may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The commissioner shall require the organization within thirty days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The commissioner may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the commissioner may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the commissioner may extend for good cause the applicable filing, deposit or adjustment period by not more than sixty days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the commissioner may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

HR 28, A JOINT RESOLUTION directing the Legislative Research Commission to cause to be conducted a study of littering problems in Kentucky and feasible solutions applicable thereto.

WHEREAS, litter constitutes a major problem in the Commonwealth of Kentucky; and

WHEREAS, the Commonwealth spends approximately \$2,000,000 each year to clean up litter; and

WHEREAS, the county and city governments of the Commonwealth spend untold millions of dollars to clean up litter; and

WHEREAS, the General Assembly has as one of its deep concerns the preservation of Kentucky's natural beauty and its environment; and

WHEREAS, non-returnable containers of all types contribute to the massive litter problems; and

WHEREAS, the "Oregon Experience" and the "Vermont Experience" have been cited by proponents and opponents to support and oppose proposed legislation in the 1974 General Assembly; and

WHEREAS, it appears in the best interest of all citizens of the Commonwealth to achieve a sound, workable solution to the problems of litter,

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission is directed to make or cause to be made a comprehensive study of:

- (1) the overall problem of litter in Kentucky and its sources;
- (2) a review of all existing anti-litter statutes in Kentucky and other jurisdictions;
- (3) the record and method of enforcement of existing anti-litter laws;
- (4) the economic, social and environmental ramifications of the application of the Oregon Bottle Bill to Kentucky; and
- (5) publish said study, together with recommendations by December 1975.

Section 2. All cabinets, agencies and departments of state government are directed to provide full assistance and information to the Legislative Research Commission upon request.

Section 3. The approximate cost of this study is estimated to be \$15,000.

The Committee on State Government reported **HB 231** and **SB 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 231, AN ACT relating to Lobbyists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 6 is created to read as follows:

The attorney general shall issue to all lobbyists, whose names appear on the legislative docket provided for in KRS 6.280, a name tag, badge or means of identification which shall identify the lobbyist by name and by organization, business or interest represented. The identification shall be pinned or otherwise affixed to the clothing of the lobbyist so as to be readily legible and visible when said lobbyist is in or about the Capitol building. The cost of each badge shall be paid by the lobbyist.

Section 2. Whereas, it is of great importance to the General Assembly that lobbyists be so identified during the present session, and emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 15, AN ACT relating to holidays.

WHEREAS, the United States Congress originally designated Veterans Day on November 11 to commemorate the Armistice of World War I; and

WHEREAS, thirty states have returned to celebrating Veterans Day on the traditional day, November 11,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), *the 11th day of November* [the fourth Monday in October] (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and *the 11th day of November* [the fourth Monday in October] (Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

The Committee on Rules reported **HB 80**, with Committee Amendment attached thereto, has been posted for passage in Orders of the Day, January 31, 1974.

Motions, Petitions and Communications

Representative Bruce moved the reading of Legislative Citations. Agreed.

Representative Whitfield moved the adoption of the following Legislative Citation No. 27:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Hopkinsville for having been selected an All Kentucky City of 1973 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the citizens of Hopkinsville for their efforts in having won this award. (Sponsored by Representatives Bruce and Whitfield)

Agreed.

Representative Brewer moved the adoption of the following Legislative Citation No. 22:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Berea for having been selected as an All Kentucky City for the third time, thereby, being named to the All Kentucky City Hall of Fame. This body commends the Chamber of Commerce and the citizens of Berea for their efforts in attaining this accomplishment. (Sponsored by Representative Brewer)

Agreed.

Representative Morgan moved the adoption of the following Legislative Citation No. 26:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Paducah for having been selected an All Kentucky City for 1973. This body extends congratulations to Paducah on having been named to the All Kentucky City Hall of Fame as a result of having won this honor three times in five years. This body commends the Chamber of Commerce, the Kentucky Lake Chapter of National Secretaries Association, and the citizens of Paducah for their efforts in attaining this honor. (Sponsored by Representative Morgan)

Agreed.

Representative Troop moved the adoption of the following Legislative Citation No. 23:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Madisonville for having been selected an All Kentucky City of 1973. This body extends congratulations to Madisonville for having received this honor the second time in three years and commends the Chamber of Commerce and the citizens of Madisonville for their efforts in this accomplishment. (Sponsored by Representative Troop)

On the roll call the vote was yeas 74-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Clarke, Crupper, Davis, DeMarcus, Denham, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Isler, Karem, Kenton, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stewart, Stone, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 2-Bruce, Thomas.

The Legislative Citation No. 23 was adopted.

The Speaker announced that without objection **HB 309** would be taken from the Committee on Appropriations and Revenue and reassigned to the Committee on State Government.

Representative Arnold moved the adoption of the following Citation No. 21:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Mt. Sterling for having been named an All Kentucky City of 1973. This body extends congratulations to Mt. Sterling for having received this honor for three consecutive years and thus being named to the All Kentucky

City Hall of Fame. This body acknowledges that Mt. Sterling is one of only two cities to have won this honor for three consecutive years and commends the Chamber of Commerce and citizens of Mt. Sterling for their efforts in attaining this achievement. (Sponsored by Representative Arnold)

Agreed.

Representative Richardson moved the adoption of the following Citation No. 25:

The House of Representatives of the Commonwealth of Kentucky hereby honors Cave City for having been selected an All Kentucky City for 1973 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the citizens of Cave City for their efforts in this accomplishment. (Sponsored by Representative Richardson)

Agreed.

Representative Whitfield moved the adoption of the following Citation No. 28:

The House of Representatives of the Commonwealth of Kentucky hereby honors Jim Howell for his selection as the Outstanding Jaycee of Hopkinsville for 1973. This body commends Mr. Howell for the contribution he has made to the city of Hopkinsville through his Jaycee work, and extends best wishes for his continued success. (Sponsored by Representative Whitfield)

Agreed.

Representative Bruce moved that he be recorded as voting "aye" on Citation No. 23.

On the roll call the vote was yeas 79-Adams, Allen, Arnold, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hurst, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, G. White, J. White, Wible. Nays 1-Troop.

The motion that Representative Bruce be recorded as voting "aye" on Citation No. 23 was adopted.

Representative Thomas requested that he be recorded as voting "aye" on Citation No. 23.

Orders of the Day

Representative Swinford moved that consideration of **HB 174** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 65**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative G. White moved the adoption of the Committee Amendment No. 1 to **HB 65**. Agreed.

Representative G. White moved the adoption of the following Floor Amendment No. 2 to **HB 65**:

Amend printed copy of House Bill 65 on page 11, line 22 by inserting "and manufacturer" after the word dealer.

Agreed.

Representative King moved that action on **HB 65** as amended be postponed indefinitely.

On the roll call the vote was yeas 14-Allen, Bowles, Crupper, Gay, Hardin, King, Little, O'Brien, Roberts, Smith, Stone, Turner, Van Horn, J. White. Nays 58-Adams, Arnold, Bennett, Benson, Beshear, Blume, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Harris, Head, Hellard, Hinkle, Holloway, Hopkins, Hughes, Hurst, Kafoglis, Karem, Kenton, Kleier, Lewis, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Stephens, Stewart, Swinford, Troop, Vincent, Wells, G. White, Whitfield, Wible.

The motion that action on **HB 65** as amended be postponed indefinitely was rejected.

Representative G. White moved that **HB 65** as amended be placed upon its passage.

On the roll call the vote was yeas 72-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Stephens, Stewart, Swinford, Thomas, Troop, Van Horn, Wells, G. White, Whitfield, Wible. Nays 15-Adams, Allen, R. Brown, Crupper, Gay, King, Little, O'Brien, Roberts, Robinson, Sharpe, Stone, Turner, Vincent, J. White.

HB 65 as amended was passed and the title agreed to.

Representative G. White moved that the vote by which **HB 65** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 4**, **HB 5**, **HB 66** and **SB 87**.

Representative Swinford moved that consideration of **HB 22**, with Floor Amendment attached thereto, **HB 24**, and **HB 25** with Committee Amendment attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 26** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved that **HB 26** be placed upon its passage.

On the roll call the vote was yeas 85-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kenton, Kidd, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 1-King.

HB 26 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 26** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 34** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 45** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 45** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, J. White, Wible. Nays 0.

HB 45 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 45** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 86** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Reynolds moved that **HB 86** be placed upon its passage.

On the roll call the vote was yeas 89-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Wible. Nays 0.

HB 86 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 86** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 135** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Romines moved that **HB 135** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blume, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, J. White, Whitfield, Wible. Nays 0.

HB 135 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 135** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 248** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Wible moved that **HB 248** be placed upon its passage.

On the roll call the vote as yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus,

Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, J. White, Wible. Nays 1-Hancock.

HB 248 was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 248** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **SB 52** be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

Representative Pearman requested that his name be added as a co-sponsor of **HB 86**.

Representative Hinkle filed Floor Amendment No. 1 to **HB 262**.

Representative Swinford filed Floor Amendment No. 2 to **HB 25**.

Representative Hislope moved that when the House adjourns today, it do so in honor of Franklin D. Roosevelt. Agreed.

Representative Paxton requested that his name be added as a co-sponsor of **HB 9**.

Representatives Priddy and Romines requested that their names be added as co-sponsors of **HB 135**.

Representative DeMarcus requested that his name be added as a co-sponsor of **HB 9**.

Representative Graves announced a public hearing on **HB 21**, Thursday, January 31, 1974 at 9:00 a.m. in the Court Room.

The Chairman of the Committee on Health and Welfare announced a meeting at 1:00 p.m., Thursday, January 31, 1974 in Room 307.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Reference of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 394, by Representative Van Horn: AN ACT relating to concealed deadly weapons.

HB 395, by Representatives Pearman, Crupper, O'Brien, Stewart, Turner and J. White: AN ACT relating to commissioners of water districts.

HB 396, by Representatives Hislope, Mason, Loudon, Morgan and Stone: AN ACT relating to pay of jurors.

HB 397, by Representative Quickert: AN ACT relating to railroad policemen.

HB 398, by Representatives Kenton and Karem: AN ACT relating to the interstate agreement on detainees.

HB 399, by Representative Stone: AN ACT relating to school district capital outlay.

HB 400, by Representatives G. White and Swinford: AN ACT relating to mobile home parks.

HB 401, by Representatives Dunn, Bennett, Priddy and Romines: AN ACT relating to Turnpike Authorities.

HR 34, by Representatives Hopkins, Beshear, Hinkle, Kenton, Stephens and Van Horn: A RESOLUTION honoring Mrs. Alice R. McVetty, 1972 Kentucky teacher of the year.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 36, SB 29, SB 1.**

Appropriations and Revenue: **SB 48, SB 30, SB 45.**

Banking and Insurance: **SB 75.**

Business Organizations and Professions: **SB 23.**

Counties and Special Districts: **SB 83.**

Health and Welfare: **SB 42.**

Highways and Traffic Safety: **SB 37, SB 14.**

Labor and Industry: **SB 81.**

State Government: **HR 25.**

Announcements (continued)

Representatives Watkins and Morgan requested that they be recorded as voting "aye" on Citation No. 23.

The following meetings were announced:

Special meeting of the Committee on State Government, Thursday at 1:00 p.m., Room 327.

Hearing on budget, Senate Chamber, Wednesday, January 30, 1974, 10:00 a.m.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 p.m., Thursday, January 31, 1974.

On the roll call the vote was yeas 77-Arnold, Bennett, Benson, Beshear, Blume, Brewer, R. Brown, Bruce, Chandler, Clapp, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Steward, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, J. White, Whitfield, Wible. Nays 3-Adams, Allen, DeMarcus.

The motion to adjourn was adopted.

THURSDAY, JANUARY 31, 1974

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Hughes moved that the reading of the Journal of January 29, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 402, by Representatives Schmidt and Hislope: AN ACT relating to functions of the Bureau for Health Services, Department for Human Resources in regulating public health matters.

HB 403, by Representative Swinford: AN ACT relating to the safety and health of workers employed within the Commonwealth of Kentucky.

HB 404, by Representative Quickert: AN ACT relating to the renting or leasing of personal property.

HB 405, by Representatives Chandler, Denham, Guenther, Priddy, Quickert and Romines: AN ACT relating to the rights of persons arrested but not convicted of crime.

HB 406, by Representatives Clarke, Hellard and Whitfield: AN ACT relating to analysis or review of pending legislation.

HB 407, by Representative Swinford: AN ACT relating to licensing of motor vehicles.

HB 408, by Representatives Mann, Clarke, Hellard, Sale, Whitfield, Stephens, McBee and Kenton: AN ACT relating to the confidentiality of student records.

HB 409, by Representative Beshear: AN ACT relating to barber's apprentices.

HB 410, by Representatives Hancock, G. White, Benson, Hellard and Stephens: AN ACT relating to service charges by cities of the first and second classes.

HB 411, by Representatives Paxton and Stone: AN ACT relating to financial administration.

HB 412, by Representatives Watkins and Richardson: AN ACT relating to banks and trust companies.

HB 413, by Representatives Schmidt, Holloway, Bowles, Brewer, Crupper, DeMarcus, Donnermeyer, Guenther, Hardin, Harris, Hislope, Hopkins, Karem, Loudon, Paxton, Schmaedecke, Sharpe and Smith: AN ACT relating to educational assistance for children of veterans.

HB 414, by Representatives Kenton, Stephens, Beshear, Bruce, Hinkle, Hopkins and VanHorn: AN ACT relating to the licensure and regulation of foster homes.

HB 415, by Representative Imes: AN ACT relating to the recall of legislation.

HB 416, by Representatives VanHorn, Robinson, Freeman, Hislope and Thomas: AN ACT relating to revenue and taxation.

HB 417, by Representative Pearman: AN ACT relating to dogs.

HB 418, by Representative Beshear: AN ACT relating to barber shops.

HB 419, by Representatives Pearman, Watkins, R. Brown, Bruce, Romines and Whitfield: AN ACT relating to individual income tax.

HB 420, by Representative Burch: AN ACT relating to workmen's compensation.

HB 421, by Representative Lindsay: AN ACT relating to driver training.

HB 422, by Representative Swinford: AN ACT relating to registration of motor vehicles.

HR 35, by Representative Kafoglis: A CONCURRENT RESOLUTION requesting the United States Congress to repeal Section 315(a) of the Federal Communications Act of 1934.

HR 36, by Representatives Lindsay, Bruce, Clapp, Clarke, and Hellard: A RESOLUTION directing appointment of a special committee to inquire into the authority and activities of the Kentucky Turnpike Authority.

HB 423, by Representative G. White: AN ACT relating to mobile homes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 370, HB 389.**

Appropriations and Revenue: **HB 396.**

Banking and Insurance: **HB 387.**

Business Organizations and Professions: **HB 372.**

Cities: **HB 392.**

Counties and Special Districts: **HB 384, HB 388, HB 395, SB 87.**

Education: **HB 362, HB 363, HB 371, HB 373, HB 385, HB 399, HR 31, HR 34.**

Elections and Constitutional Amendments: **HB 380.**

Health and Welfare: **HB 376, HB 377, HB 382, HB 400.**

Highways and Traffic Safety: **HB 364, HB 375, HB 390, HB 391, HB 401.**

Judiciary: **HB 367, HB 368, HB 374, HB 378, HB 379, HB 383, HB 386, HB 394, HB 398 and HR 33.**

Public Utilities and Transportation: **HB 361, HB 365, HB 397.**

State Government: **HB 366, HB 369, HB 381, HB 393, HR 32.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 286.**

Elections and Constitutional Amendments: **HB 95, HCR 29.**

Report of Committees

The Committee on Rules reported **HB 114** and **HB 227** have been posted for passage in Orders of the Day, February 1, 1974.

The Committee on Rules reported **HB 104** has been sent to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Judiciary reported **HB 7**, with Committee Substitute attached thereto, and **HB 229**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to judicial districts.

WHEREAS, the General Assembly has given due regard to the elements of territory, business and population involved in the division of the state into judicial districts; and

WHEREAS, with such due regard, the General Assembly has found the following facts to exist:

(1) That the entire population of the state as of the last preceding Federal census was 3,220,711 as of March 15, 1972.

(2) That upon the basis of such population, additional judicial districts may be established to those now existing, pursuant to Sections 128 and 132 of the Constitution.

(3) That it will be convenient and advantageous from the standpoint of territory, and will comply with the spirit and intent of the Constitution with respect to population and expedite the business in the counties involved, to create a new judicial district to consist of the counties of Boone and Gallatin and change the Fifteenth Judicial District so that it consists of the counties of Grant, Carroll and Owen.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Fifteenth Judicial District shall hereafter be composed of the counties of Grant, Carroll and Owen.

Section 2. A new Judicial District is established to consist of the counties of Boone and Gallatin.

Section 3. The present circuit judge and Commonwealth's attorney for the Fifteenth Judicial District shall retain their offices for the terms for which they were elected for the district as it has been changed under this Act.

Section 4. The offices of circuit judge and Commonwealth's attorney for the new judicial district established by this Act are hereby created.

Section 5. Until the regular election for circuit judge and Commonwealth's attorney in 1975, these offices for the newly created district shall be filled as provided in Section 152 of the Constitution for offices in which there is a vacancy.

Section 6. At the regular election in 1975 and every six years thereafter there shall be elected a circuit judge and a Commonwealth's attorney for the newly created judicial district.

Section 7. The effective date of this Act shall be September 1, 1974.

The Committee Substitute to **HB 7** is as follows:

HB 7, AN ACT relating to judicial districts.

WHEREAS, the General Assembly has given due regard to the elements of territory, business and population involved in the division of the state into judicial districts; and

WHEREAS, with such due regard, the General Assembly has found the following facts to exist:

(1) That the entire population of the state as of the last preceding Federal census was 3,220,711 as of March 15, 1972.

(2) That upon the basis of such population, additional judicial districts may be established to those now existing, pursuant to Sections 128 and 132 of the Constitution.

(3) That it will be convenient and advantageous from the standpoint of territory, and will comply with the spirit and intent of the Constitution with respect to population and expedite the business in the counties involved, to create two additional judicial districts and to create one additional judgeship in existing districts.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) The Fifteenth Judicial District shall hereafter be composed of the counties of Grant, Carroll and Owen.

(2) A new Judicial District is established to consist of the counties of Boone and Gallatin.

(3) The present circuit judge and Commonwealth's attorney for the Fifteenth Judicial District shall retain their offices for the terms for which they were elected for the district as it has been changed under this Act.

(4) The offices of circuit judge and Commonwealth's attorney for the new judicial district established by this Act are hereby created.

(5) Until the regular election for circuit judge and Commonwealth's attorney in 1975, these offices for the newly created district shall be filled as provided in Section 152 of the Constitution for offices in which there is a vacancy.

(6) At the regular election in 1975 and every six years thereafter there shall be elected a circuit judge and a Commonwealth's attorney for the newly created judicial district.

Section 2. (1) The Tenth Judicial District shall hereafter be composed of the counties of Hart, Larue, and Nelson.

(2) A new judicial district is established to consist of the county of Bullitt.

(3) The present circuit judge and Commonwealth's attorney of the Tenth Judicial district shall retain their offices for the term for which they were elected for the district as it has been changed by this act.

(4) The office of circuit judge and Commonwealth's attorney for the new judicial district established by this section are hereby created.

(5) Until the regular election for circuit judge and Commonwealth's attorney in 1975, these offices for the new judicial district shall be filled as provided in Section 152 of the Constitution for offices in which there is a vacancy.

(6) At the regular election in 1975 and every six years thereafter there shall be elected a circuit judge and Commonwealth's attorney for the newly created judicial district.

Section 3. (1) The 48th Circuit Court District shall have two circuit judges.

(2) The circuit court shall be established in two numbered divisions, that is, a First Division and a Second Division. The present circuit judge shall be the judge of the First Division and the additional judge provided for herein shall be the judge of the Second Division.

(3) Until the regular election for circuit judge in 1975, the office for the newly created Second Division of the district shall be filled as provided in Section 152 of the Constitution for offices in which there is a vacancy.

(4) At the regular election in 1975 and every six years thereafter there shall be elected a circuit judge for the newly created Second Division of the 48th Circuit Court District.

Section 4. Whereas, **HB 288** makes provision for the necessary State funding of all Commonwealth's Attorneys' offices (KRS 64.510) and two additional circuit judges' offices; and, whereas, this Act creates one additional circuit judges' office, the following amounts are hereby appropriated from the General Expenditure Fund in the State Treasury for the purposes of Section 2 of this Act: \$35,000 for the fiscal year 1974-75; \$35,000 for the fiscal year 1975-76.

Section 5. The effective date of this Act shall be September 1, 1974.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 25.410 to 25.610 is created to read as follows:
As used in this Act "division" means "The Small Claims Division of Quarterly Court."

Section 2. A new section of KRS 25.410 to 25.610 is created to read as follows:

The fiscal court of each county may establish a small claims division of quarterly court. Upon the establishment of the division the county judge shall appoint a trial commissioner for the division as provided for by KRS 25.460.

Section 3. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) The division may be used in any civil action, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed two hundred dollars exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of two hundred dollars, exclusive of interest and costs.

(3) The division shall have jurisdiction when the party defendant or his agent resides or is doing business within the county.

(4) The jurisdiction vested in this division shall be alternative and not exclusive.

Section 4. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) Parties in the division may be individuals, partnerships, corporations, unions, associations, or any other kind of organization or entity.

(2) No party shall be represented by an attorney in the division.

(3) An individual shall represent himself in the division. A partnership shall be represented by a partner or one of its employees. A union shall be represented by a union member or union employee. A corporation shall be represented by one of its employees. An association shall be represented by one of its members or by an employee of the association. Any other kind of organization or entity shall be represented by one of its members or employees.

(4) Only a party, natural or otherwise, who has been a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim in the division.

(5) No party may file an assigned claim in the division.

(6) No action may be brought by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent.

(7) Notwithstanding any other provision of this section, an executor or administrator of a decedent's estate, a guardian, or a conservator may be a party in the division.

Section 5. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) Actions in the division shall be commenced by the filing of a claim by the plaintiff on a form provided by the clerk of the quarterly court. The claim form shall be executed by the plaintiff in the presence and with the help of the clerk of the quarterly court or his deputy or assistant designated by him.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of two dollars to the clerk.

(3) Upon filing of a claim in the division, the clerk shall set a time for hearing and shall cause notice to be served upon the defendant. The hearing time set shall be not less than 20 days nor more than 40 days after the filing of the claim. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he fails to appear, judgment may be entered against him in accordance with section 6 of this Act. Notice may be served personally in the same manner as for other actions in the quarterly court or by mail, at the option of the plaintiff as stated in writing in the claim. When service by mail is requested, the division shall mail the notice by registered mail, return receipt requested, to the defendant at the address given in the claim. Service by mail shall be complete upon return to the division of the receipt signed by the defendant, and such receipt shall be prima facie evidence of such service. If the registered notice letter is returned refused, undelivered, or the return receipt is not received by the clerk five days before the hearing date, the division shall then begin service of process by personal service and the hearing date shall be redocketed. An additional 20 days may be granted where necessary for this purpose. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim in an amount not in excess of two hundred dollars, exclusive of interest and costs. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the defendant's counterclaim or setoff is in excess of the jurisdictional limits of the division then the provisions of KRS 25.050 shall apply.

(5) No prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

(6) All forms required by this section shall be prescribed by the Court of Appeals of Kentucky and shall be of a simplified non-technical nature. The claim form shall provide for the names and addresses of the plaintiff and defendant, and a concise statement of the nature, amount, and time and place of accruing of the claim and shall also contain a brief explanation of the division's procedure and methods of appeal therefrom. The claim form shall also contain clear notice of the rights of the defendant.

Section 6. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) If the plaintiff does not appear at the time set for trial, the division may dismiss the claim for want of prosecution, or enter a finding on the merits for the defendant, or make such other disposition as may be proper.

(2) The plaintiff shall be entitled to a judgment by default, without further proof, upon failure of defendant to appear, when the claim of the plaintiff is for a liquidated amount; when the amount is unliquidated, plaintiff shall be required to present proof of his claim.

Section 7. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) All matters in the division shall be tried without a jury. Upon filing a claim, the plaintiff shall be deemed to have waived his right to a jury trial in the division. This waiver shall be explained to the plaintiff by the clerk upon filing the claim. If the defendant in any action desires a jury trial, he shall give notice to the division prior to the time set for the hearing, and the case shall be transferred to the regular docket of the quarterly court and shall thereafter be subject to all the provisions of law and rules of court applicable to proceedings in the quarterly court.

(2) The trial commissioner of the division shall have the right to have an action transferred to the regular docket of the quarterly court, if in his discretion the action is deemed too complex for the simplified procedure of the division.

Section 8. A new section of KRS 25.410 to 25.610 is created to read as follows:

No formal pleadings other than the claim and notice, and the counterclaim or setoff and notice, if appropriate, shall be required in the division, and the hearing and disposition of all matters shall be informal so that the rules of evidence, except those relating to privileged communications, shall not apply, with the sole object of providing a prompt and just settlement of the issues. However, where possible the trial commissioner shall apply the procedural and substantive laws of the Commonwealth in all actions arising in the division.

Section 9. A new section of KRS 25.410 to 25.610 is created to read as follows:

The trial commissioner of the division may in his discretion, order that the judgment shall be paid at a certain date or by specified weekly installments, and during compliance with such order the trial commissioner may stay the issue of execution and other proceedings in aid of execution. Such stay may be modified or vacated at any time. Except as otherwise provided in this section, a judgment creditor may avail himself to any proceedings, except garnishment, to obtain satisfaction of the judgment, including execution, that are permitted to obtain satisfaction of judgment rendered in an ordinary civil action. Garnishment proceedings shall not be permitted in this division.

Section 10. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) The division may, by rule, establish voluntary conciliation procedures in the division.

(2) The division may, by rule, establish night sessions of the division to facilitate plaintiff's access to the division.

Section 11. A new section of KRS 25.410 to 25.610 is created to read as follows:

To promote quick settlement of small claims, the division shall have a policy of granting continuances only where reasons of fairness and justice so require.

Section 12. A new section of KRS 25.410 to 25.610 is created to read as follows:

If either party is dissatisfied with the judgment of the division he may appeal to the quarterly court of the county where such division is located. Any such appeal shall be tried de novo.

Section 13. A new section of KRS 25.410 to 25.610 is created to read as follows:

(1) The Attorney General shall prepare a pamphlet or suitable material in layman's language explaining the jurisdiction of the division, procedures followed by the division, and other similar matters of importance.

(2) This pamphlet shall be made available to all quarterly court clerks to be made available to any person.

Section 14. A new section of KRS 25.410 to 25.610 is created to read as follows:

Notwithstanding any of the above provisions of this Act, the division may establish such rules and procedures deemed necessary to facilitate the goals of prompt and just settlement of small claims.

Section 15. KRS 25.460 is amended to read as follows:

(1) If the regular judge of the quarterly court is not present, or is present but cannot properly preside, or if either party files with the clerk of the quarterly court his affidavit that the judge will not give him a fair

and impartial trial, or will not decide impartially an application for change of venue, the parties may select by agreement a person to act as special judge for the trial of the action, and he shall act as special judge of the quarterly court during the remainder of the term in all cases requiring a special judge, except in cases where the special judge cannot properly preside. If the parties do not agree upon a person, the attorneys of the court who are present and not interested in the action shall elect a person then present to serve as special judge. If neither the parties nor the attorneys elect a special judge, the clerk of the quarterly court shall at once notify the governor, who shall appoint a person to serve as special judge.

(2) The election of a special judge shall be held by the clerk of the quarterly court, who shall cast the deciding vote in case of a tie. If any person elected cannot or will not serve, a new election shall be held.

(3) The special judge shall have the qualifications of a regular county judge, and the same powers and duties, he may, if necessary, hold a special term to try any case.

(4) *The county judge shall have the authority to appoint a trial commissioner for the small claims division of quarterly court and the trial commissioner shall be an attorney at law, who has been licensed to practice with the commonwealth for at least five years.*

The Committee Amendment to **HB 229** is as follows:

Amend printed copy of House Bill 229, page 4, line 9, by deleting the word "may" and inserting the word "shall" in lieu thereof. And, on page 4, line 11, by adding a period "." after the word "court" and striking the balance of the paragraph through line 24 and the word "purpose." and, on page 10, line 18, by adding a period "." after the word "court" and striking the balance of the paragraph in its entirety. And, on page 10, after line 20, by adding a new section to read as follows:

"Section 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are severable."

The Committee on Judiciary reported **HB 206** with the expression of opinion that the same should not pass.

The Committee on Agriculture and Natural Resources reported **HB 19** with Committee Substitute attached thereto, **HB 67**, **HB 72**, **HB 180** with Committee Substitute No. 1 attached thereto, **HB 207**, and **HB 249** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to commercial feed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.501 is amended to read as follows:

As used in KRS 250.491 to 250.631:

- (1) "Person" includes individual, partnership, corporation, and association;
- (2) "Distribute" means to offer for sale, sell, exchange or barter, commercial feed; *or to supply, furnish or otherwise provide commercial feed to a contract feeder;*
- (3) "Distributor" means any person who distributes;
- (4) "Commercial feed" means all materials except unmixed seed, whole [or processed,] *and unprocessed*, when not adulterated within the meaning of subsections (1), (2) and (3) of KRS 250.541 which are [offered for sale] *distributed for use* as feed or for mixing in feed: Provided, that the director by regulation may exempt from this definition, or from specific provision of KRS 250.491 to 250.631, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not [intermixed or] mixed with other materials, and are not adulterated within the meaning of subsections (1), (2), (3) and (4) of KRS 250.541.
- (5) "Feed ingredient" means each of the constituent materials making up a commercial feed;
- (6) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;
- (7) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body;

(8) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser;

(9) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;

(10) "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;

(11) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use;

(12) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;

(13) "Labeling" means all labels and other written, printed, or graphic matter (a) upon a commercial feed or any of its containers or wrapper or (b) accompanying such commercial feed;

(14) "Ton" means a net weight of two thousand pounds avoirdupois;

(15) "Per cent" or "percentages" means percentages by weights;

(16) "Official sample" means a sample of feed taken by the director or his agent in accordance with the provisions of subsections (3), (5) or (6) of KRS 250.581;

(17) "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product;

(18) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

The Committee Substitute to **HB 19** is as follows:

HB 19, AN ACT relating to commercial feed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.501 is amended to read as follows:

As used in KRS 250.491 to 250.631:

(1) "Person" includes individual, partnership, corporation, and association;

(2) "Distribute" means to offer for sale, sell, exchange or barter, commercial feed;

(3) "Distributor" means any person who distributes;

(4) "Commercial feed" means all materials except unmixed seed, whole and unprocessed, [or processed,] when not adulterated within the meaning of subsections (1), (2) and (3) of KRS 250.541 which are offered for sale as feed or for mixing in feed: Provided, that the director by regulation may exempt from this definition, or from specific provision of KRS 250.491 to 250.631, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed or mixed with other materials, and are not adulterated within the meaning of subsections (1), (2), (3) and (4) of KRS 250.541.

(5) "Feed ingredient" means each of the constituent materials making up a commercial feed;

(6) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

(7) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body;

(8) "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser;

(9) "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution;

(10) "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;

(11) "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use;

(12) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;

(13) "Labeling" means all labels and other written, printed, or graphic matter (a) upon a commercial feed or any of its containers or wrapper or (b) accompanying such commercial feed;

(14) "Ton" means a net weight of two thousand pounds avoirdupois;

(15) "Per cent" or "percentages" means percentages by weights;

(16) "Official sample" means a sample of feed taken by the director or his agent in accordance with the provisions of subsections (3), (5) or (6) of KRS 250.581;

[(17)] "Contract feeder" means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product;]

(17)[(18)] "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(18) "Offered for sale" means to hold for sale, sell, exchange, or barter commercial feed.

HB 67, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word "department" shall mean the *Department for Natural Resources and Environmental Protection* [department of natural resources, or if said department shall be abolished, the department, board, body or commission succeeding to the principal functions thereof or to whom the powers given by KRS 146.010 to the department shall be given by law];

(3) The word "division" shall mean the *Division of Water Resources* [division of water];

(4) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the *Commonwealth* [commonwealth];

(5) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(6) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(7) The word "floodway" shall mean that area [outside the banks of the channel] of a stream or watercourse [reasonably] necessary to carry off flood water[s] *as determined by the commissioner*;

(8) The word "floodplain" shall mean the area in a watershed that *is subject to inundation* [was inundated during the highest flood of record];

(9) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(10) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(11) The word "water resource project" or "project" shall mean any construction, development, improvement or any other activity intended to conserve and develop the water resources of the *Commonwealth* [commonwealth];

(12) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;[.]

(13) *The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound water;*

(14) *The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;*

(15) *"Commissioner" shall mean the commissioner of the Department for Natural Resources and Environmental Protection;*

(16) "Authorized representative" shall mean an individual specifically authorized by the commissioner to act in his behalf;

(17) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(18) "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 2. A new section of KRS Chapter 151 is created to read as follows:

The commissioner shall exercise the following authority and powers:

(1) To administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder.

(2) To conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;

(3) To adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and regulations for flood control and water resources which he deems necessary to accomplish the purpose of this chapter. Such rules and regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, and use of the reservoir and the lands lying in the floodplain downstream from the dam;

(4) To adopt, without notice or hearing, rules and regulations with respect to procedural aspects of hearings, the filing of reports and orders, the issuance of certificates of inspection, construction permits, water withdrawal permits, and other procedural matters;

(5) To issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and regulations issued thereunder;

(6) To examine and approve or disapprove applications for construction permits for the construction, enlargement, repair, or alteration of a dam;

(7) To establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of regulations as described in subsection 2(3);

(8) To make such investigations or inspections as necessary to determine the condition of a dam to insure compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;

(9) To order the suspension or revocation, after warning, of any certificate of inspection, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the certificate of inspection, construction permits, or water withdrawal permits;

(10) To order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by the provisions of this chapter.

(11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the department in carrying out the provisions of this chapter.

Section 3. KRS 151.130 is amended to read as follows:

There is hereby created in the *Department for Natural Resources and Environmental Protection* [department of natural resources] a *Division of Water Resources* [division of water]. The director of the division shall be appointed by the commissioner of the *Department for Natural Resources and Environmental Protection in accordance with KRS 224.031* [department of natural resources with the approval of the governor]. The director, with the approval of the commissioner shall employ such personnel as is necessary to administer the functions of the division subject to the provisions of KRS chapter 18].

Section 4. KRS 151.140 is amended to read as follows:

No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the *department* [division] for such withdrawal, diversion, or transfer of water. Provided, however, no permit shall be required for [and nothing herein shall interfere with] the use of water for agricultural and domestic purposes including irrigation; *and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by regulation* [and no permit shall be required for water used in the production of steam generating plants or water injected underground in conjunction with operations for the production of oil or gas].

Section 5. KRS 151.160 is amended to read as follows:

(1) *All public water withdrawn, diverted or transferred pursuant to a permit under KRS 151.140 must be recorded and a report thereof submitted to the department in a manner prescribed by the department.*

(2) *The wilful failure to keep accurate records of the withdrawal, diversion or transfer of public water or the failure to submit reports as prescribed by the department shall subject the permit holder to the provisions of KRS 151.990 and possible revocation of the permit.*

[(1) All public water withdrawn pursuant to a permit under KRS 151.140, must be recorded and a report thereof kept and sent to the division as hereinafter provided.]

[(2) Beginning July 1, 1967, all persons, business, industries, cities, counties, water districts and other political subdivisions withdrawing, diverting or transferring public water under a permit from the division, must record the amount of water withdrawn, diverted or transferred each day. Quarterly reports, on forms to be supplied by the division, indicating amounts of public water withdrawn, diverted or transferred, shall be timely submitted to the division.]

[(3) The division or any of its authorized representatives shall have the right to enter and inspect water withdrawal records at all times to determine whether such records are correct and in proper order.]

[(4) The wilful failure to keep accurate records of the withdrawal, diversion, or transfer of public water or the failure to timely submit quarterly reports upon demand by the division shall subject the permit holder to being called for a hearing before the division and possible penalties under KRS 151.990.]

Section 6. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The *department* [director of the division] shall issue a permit to the applicant if an investigation by the *department* [division] reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the *department* [division] to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the *department* [division] by the withdrawer, or by the *department* [division] when the [quarterly] reports indicate that the withdrawer is using substantially a different amount [less] than permitted [the permit amount].

Section 7. KRS 151.180 is amended to read as follows:

(1) *Except as provided in Section 19 of this act regarding emergency situations, any person aggrieved by any order, determination, regulation, or ruling of the department may, within 30 days of the effective date of such order, determination, regulation, or ruling, make application to the commissioner for a hearing thereon.*

(2) *Upon receipt of a written petition from the petitioner pursuant to this Section, the department shall give the petitioner 30 days written notice of the time and place of the hearing, but in no case shall such hearing be held later than 60 days from the receipt of the written petition. All hearings shall be open to the public. Notice of any and all hearings shall be given at least 30 days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in the county affected, giving the date, time, place, and purpose of such hearing.*

(3) *In connection with the hearing, the department shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The department may administer oaths and examine witnesses. In case of refusal to obey a subpoena issued to any person, the circuit court of the county in which the person resides upon application by the department, may issue to the person an order requiring him to appear before the department, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.*

(4) *On the basis of the evidence produced at the hearing, the commissioner shall make findings of fact and conclusions of law and enter such decisions and orders, as in his opinion will best further the purposes of this chapter, and shall give written notice of such decisions and orders to the petitioner. The decision issued under this subsection shall be issued no later than 30 days following the close of the hearing by the department.*

(5) *The decision of the department shall become final and binding on all parties, subject to judicial review as provided in KRS 151.190.*

[Prior to the denial of an application for a water withdrawal permit or the issuance of a permit for amounts less than the applicant applied for, the person, business, industry, city, county, water district or other political subdivision aggrieved thereby, shall be notified by the division and given an opportunity to appear before the division and be heard. Within thirty (30) days of an order of the division denying a permit, or an order issuing a permit in amounts less than those applied for, the aggrieved person may appeal the order of the

division to the circuit court of the county in which the applicant resides as provided in KRS 151.190.]

Section 8. KRS 151.190 is amended to read as follows:

Any person aggrieved by a final order of the *department* [division] may obtain a review of the order by filing in the circuit court of the county in which the applicant resides, within thirty (30) days after entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the *department* [division], and thereupon the *department* [division] shall certify and [the] file in court a copy of the record before the *department* [division], including therein all pleadings, orders, documentary exhibits and stenographic transcript of testimony before the *department* [division]. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the *department* [division] or there was reasonable grounds for failure to do so. The findings of the *department* [division] as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the *department* [division], the court may order the additional evidence to be taken before the *department* [division] in such manner and upon such condition as the court may consider proper. The *department* [division] may modify its findings as to the facts, by reason of the additional evidence so taken; and it shall file any modified or new findings with the court, which if supported by substantial evidence shall be conclusive, and may file any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the *department's* [division's] order. An appeal may be taken from the judgment of the circuit court to the Court of Appeals on the same terms and conditions as an appeal is taken in any civil action.

Section 9. KRS 151.200 is amended to read as follows:

(1) Notwithstanding the existence of any permits for the withdrawal, diversion, or transfer of public water, in times of drought, emergency, or other similar situations requiring a balancing of the rights and available water between water users, the *department* [division], with the approval of the authority may temporarily allocate the available public water supply among water users and restrict the water withdrawal rights of permit holders, until such time as the condition is relieved and the best interests of the public are served.

(2) The *department* [division], with the approval of the authority, may issue a permit for the transfer or diversion of public water from one (1) stream or watershed area to another, where such transfer is consistent with the wise use of the public water of the *Commonwealth* [commonwealth] and is in the best interests of the public.

Section 10. KRS 151.210 is amended to read as follows:

[(1)] Any owner of land contiguous to public water shall at all times have the right to the use of water therefrom to satisfy his needs for domestic purposes, which shall include water for household purposes, drinking water for poultry, livestock and domestic animals. The use of water for such domestic purposes shall have priority and be superior to any and all other uses.

[(2)] An owner or group of owners of land contiguous to public water, operating under a withdrawal permit, shall have the right to impound and conserve water for their use by impounding such water behind a dam in the natural stream bed or on their land, when the flow of the stream or level of the lake is such that the impounding will not impair existing uses, or will not unreasonably interfere with a beneficial use by other water users. An obstruction placed across a natural stream shall be approved by the division as provided in KRS 151.250, and shall provide an outlet for the release of water which the owner is not entitled to use or withdraw under KRS chapters 146, 149, 151, 262, 350.029 and 433.750 to 433.757, and the owner shall operate the outlet in accordance with this provision.]

Section 11. KRS 151.220 is amended to read as follows:

The *department* [division] shall:

(1) Undertake for and as the official agency of the state, such studies and prepare such reports and recommendations as may be necessary to establish a statewide program of flood control (including major drainage), and a statewide program for the development of water resources;

(2) Study and review for the state as its official agency, all survey reports, engineering reports, and other reports concerning or affecting *water related* projects within the state which are proposed for construction by the federal government, the state government or any agency or subdivision thereof, or which will involve the expenditure of federal or state funds, and which might affect flood control or the development of water resources of the state, and to act as the official representative of the state in any representations, recommendations, or requests to congress or the general assembly concerning such projects or the priority which should be accorded them with relation to the statewide program;

(3) Make a continuous water resources study of data from other existing state or federal agencies and such other sources as may be available. From such studies, [the division with the approval of] the department

shall formulate *conclusions and recommendations for use by the Commonwealth in assuring* [amendments to present and future water resources laws, whenever necessary, to maintain] the maximum beneficial use of the water resources of the *Commonwealth* [commonwealth];

(4) Cooperate with any local, state or federal agency, or the agencies of any other state engaged or proposing to engage in any work which will affect or be affected by the functions of the *department* [division] and may lend to or receive from any such agency such financial assistance as may be necessary within the limits of authorized expenditure;

(5) Have, for flood control and water resources development purposes, jurisdiction over all streams within or bordering upon the state. *The department* [Whenever necessary, the division] shall have the authority to establish and enforce floodways along such streams;

(6) Have authority to accept and use gifts, contributions, donations and grants;

(7) *Be the official state agency for determination of stream mileage.*

[(7) Adopt, with the approval of the department, certain rules and regulations pertaining to flood control and water resources found necessary in the administration of its duties.]

Section 12. KRS 151.230 is amended to read as follows:

Whenever the *department* [division] prescribes a standard by rule or regulation, such rule or regulation shall establish a minimum requirement concerning the matter covered thereby and shall be construed in relation to a local law, rule or regulation.

Section 13. KRS 151.240 is amended to read as follows:

On its own initiative or when so directed by the governor, the *department* [division] shall make a preliminary survey and report of any project which involves or might involve expenditure of state funds or construction work by the state of Kentucky in the construction, reconstruction, or maintenance of any flood control works or other works concerning or affecting the development of water resources. If the *department* [division], with the approval of the governor, finds from such preliminary survey that the project is not favorable, no further action shall be taken on such project without specific instructions or authorization by the general assembly. If the *department* [division] finds from such preliminary survey that such project is favorable on a basis of need, economic value or future development, it shall, with the approval of the governor, cause a comprehensive final survey and report to be prepared, and submit such report to the governor for approval and authority to perform the necessary construction work.

Section 14. KRS 151.250 is amended to read as follows:

(1) Notwithstanding any other provision of law, no person and no city, county, or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the state highway department) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the *department* [division] and a *construction* permit issued. However, the *department* [division] by regulation, may exempt those dams, embankments, or other obstructions which are not of such size or type as to require approval by the *department* [division] in the interest of safety or retention of water supply.

(2) No person, [city, county or other political subdivision of the state] shall commence the filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the *department* [division] and a *construction* permit issued as required in subsection (1) above.

(3) Nothing in this section is intended to give the *department* [division] any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch, or system established for agricultural purpose, or to require approval of the same except where such obstruction of the stream or floodway is determined by the *department* [division] to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified.

Section 15. KRS 151.260 is amended to read as follows:

(1) All applications for permits required by KRS 151.250 shall be in the form and manner prescribed by the *department* [division].

(2) Unless waived by the *department* [division], all plans and specifications submitted for approval shall be drawn by an engineer, licensed to practice as a professional engineer under the provisions of KRS Chapter [chapter] 322.

(3) Upon receipt of all plans and specifications, the *department* [division] shall notify the applicant in writing within twenty (20) working days either that the permit will be issued or denied, or that certain

modifications in the plans or specifications must be made before a permit will be issued.

Section 16. KRS 151.280 is amended to read as follows:

(1) Any person, county, city or other political subdivision of the state who shall begin on the site preparation for the construction, reconstruction, relocation or improvement of any project prior to the issuance of the *construction* permit required in KRS 151.250 shall be considered as commencing *the work* without a *construction* permit and punishable by penalties provided in KRS 151.990.

(2) Whenever plans and specifications have been approved in writing and a *construction* permit issued by the *department* [division], no person, [city, county, or other political subdivision] shall deviate from the approved plans in the construction, reconstruction, relocation or improvement unless such change is submitted in writing to the *department* [division] and prior approval is received from the *department* [division] in writing before proceeding with the work. Any substantial deviation from the approved plans shall be construed as commencing without a *construction* permit and punishable by the penalties provided in KRS 151.990.

Section 17. A new section of KRS Chapter 151 is created to read as follows:

(1) A certificate of inspection shall be submitted by the owner when requested by the department, and the department shall examine applications for a certificate of inspection and cause an on-the-ground inspection to be made of an existing dam. The department shall then, within 60 days of the receipt of the completed application for a certificate of inspection, either grant the certificate or disapprove the request in writing, stating the reasons for disapproval.

(2) In deciding whether or not a certificate of inspection should be issued, the department shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:

(a) The proposed action will be conducted in such a way that the safety of the public is adequately provided for;

(b) All information requested by the department has been provided; and

(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.

(3) In granting a certificate of inspection, the department may impose such conditions relating to the inspection, operation, maintenance alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.

(4) The department may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories.

(5) The department may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.

(6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the department and stated on the certificate. In determining the period of inspection, the department may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

(7) The department may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the department of a revised certificate, except when the department finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the department, the new conditions shall be effective immediately.

(8) Specific guidelines for issuance and renewal of certificate of inspection shall be provided by regulations.

(9) Plans and specifications submitted to the department shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the department.

Section 18. A new section of KRS Chapter 151 is created to read as follows:

The public safety and welfare requiring it, the commissioner shall conduct a program of regular inspections of dams and reservoirs within the state. The frequency of such inspections shall be as determined by the commissioner, who may establish different inspection intervals.

Section 19. A new section of KRS Chapter 151 is created to read as follows:

(1) Whenever the department determines that any person to which a certificate of inspection has been issued has failed to comply with the conditions in said certificate or whenever the department determines that life or property are or may be endangered by the failure or incapacity of any dam, reservoir, levee, embankment, or other water barriers, or by other causes related to a dam or reservoir, levee, embankment, or other water barriers irrespective of any conditions or the lack thereof in the certificate of inspection for said dam or reservoir, or in those instances where no certificate is required on levee, embankment or other water

barriers, the department shall order the owner thereof to take such action as is necessary to render the dam, reservoir, levee, embankment, or other water barriers safe. Where the owner fails, in the judgment of the department, to take satisfactory action toward compliance with such order, or to maintain a satisfactory rate of progress toward full compliance therewith, or where in the judgment of the department, the danger to life or property will not permit delay, the department shall request that a state of emergency be declared by the governor, and upon such declaration, shall take such action as it deems necessary to render the dam, reservoir, levee, embankment, or other water barriers safe, which action may include, but is not limited to:

- (a) Taking full charge and control of the dam, reservoir, levee, embankment, or other water barriers;
- (b) Lowering the water level or emptying the reservoir;
- (c) Performing any necessary remedial or protective work at the site; or
- (d) Taking such other steps as may be necessary to safeguard life and property.

(2) The department may continue such action until the dam, reservoir, levee, embankment, or other water barriers involved is rendered safe or the emergency requiring the action has ceased. The commissioner is authorized to enter into contracts or agreements with other state, local, or federal agencies, or other persons, for work necessary to implement such necessary actions.

(3) Any person to whom an order is directed pursuant to this Section shall comply therewith immediately, but, on petition to the department, may within five (5) working days have a hearing thereon.

Section 20. A new section of KRS Chapter 151 is created to read as follows:

Whenever the commissioner takes action authorized by Section 19, the owner or owners of the dam or the dams creating the impoundment, or levee, embankment, or other water barriers at which such action was taken shall be jointly and severally liable for the costs of taking such action, including applicable overheads, and a lien in the amount of such costs shall be automatically created on all property owned by any such owner at or proximate to such dam or reservoir. The commissioner shall file an action in the circuit court having jurisdiction over any owner or the owner's property for the recovery of such costs, and may join all other owners in such action irrespective of any statutes to the contrary relating to jurisdiction or venue. Following the conclusion of such action the commissioner may make application to the court for foreclosure sale of the property to satisfy any judgment obtained by the commissioner.

Section 21. KRS 151.320 is amended to read as follows:

(1) The mayor or chief executive officer of each city and the county judge of each county, shall have the concurrent duty of enforcing with the *department* [division], within their respective cities and counties, the provisions of KRS 151.250, 151.280 and 151.310 and rules and regulations issued thereunder.

(2) When a violation of KRS 151.250, 151.280 or 151.310 within his jurisdiction is brought to the attention of a mayor or chief executive officer of a city or a county judge, he shall immediately notify the *department* [division] of the location and details of such violation.

(3) *No municipality, county, nor any group of counties, or other person, shall regulate, supervise, or provide for the regulation or supervision of any dams or reservoirs within their jurisdictions, including the construction, maintenance, operation, removal, or abandonment thereof, nor to limit the size of a dam or reservoir or the amount of water which may be stored therein, where the exercise of such authority would conflict with the powers and authority vested in the department by this chapter.*

Section 22. KRS 151.330 is amended to read as follows:

(1) The governor, the commissioner of *Natural Resources and Environmental Protection* [natural resources], the *secretary for finance and administration* [commissioner of finance], the commissioner of health, the commissioner of commerce, the commissioner of agriculture, the attorney general, the *secretary of the department of transportation*, the *commissioner of fish and wildlife resources*, and the *commissioner of parks*, and their respective successors in office, shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the *Commonwealth* [commonwealth] by the name of "The *Water Resources Authority* [water resources authority] of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter [and KRS chapter 146], all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) *Six (6) [Four (4)]* members of the authority shall constitute a quorum for the transaction of business. [Within ninety (90) days from March 8, 1966, the authority shall convene and organize.] The governor shall, by virtue of his office, be the chairman of the authority. The commissioner of *Natural Resources and Environmental Protection* [natural resources] shall, by virtue of his office, be the vice-chairman of the authority. The *secretary of finance and administration* [commissioner of finance] shall, by virtue of his office, be the treasurer of the authority.

Section 23. KRS 151.340 is amended to read as follows:

Administrative details and other activities of the authority shall be administered by the executive director of the authority and he shall maintain correct, complete records of all the authority's transactions and proceedings which shall constitute public records open to inspection at reasonable times. The executive director of the authority shall be the director of the *Division of Water Resources* [division of water].

Section 24. KRS 151.460 is amended to read as follows:

(1) It shall be the duty of the attorney general, upon the request of the *commissioner* [director], to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of this chapter, *except as provided for in Section 20 of this act* [and KRS chapter 146].

(2) All actions for penalties and injunctive relief for violations of this chapter shall be brought in the name of the *Commonwealth* [commonwealth] of Kentucky by the attorney general in the circuit court of the county in which the applicant resides, or in the circuit court having jurisdiction of the defendant.

Section 25. KRS 151.270, 151.290, 151.300, and 151.310 are repealed.

HB 72, AN ACT relating to solid waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 224 is created to read as follows:

(1) No construction permit shall be issued until a complete application has been submitted to the department and the applicant has published that he has made application for a landfill site in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed landfill site.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a landfill site shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this department; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed landfill may file with the department a verified petition which sets forth the grounds whereby he may be injured and demand a hearing pursuant to KRS 224.081(2)."

(4) No permit shall issue until at least 30 days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing.

Section 2. A new section of KRS Chapter 224 is created to read as follows:

Failure on the part of any applicant to demonstrate financial responsibility to construct and operate the site in accordance with the rules and regulations promulgated by the department shall be the grounds for denial of a permit.

Section 3. A new section of KRS Chapter 224 is created to read as follows:

(1) A permit to operate is final upon issuance, if it is not conditioned upon site improvements. If improvements are a condition of the permit's issuance, it shall be treated as a permit to construct and operate.

(2) A permit to construct shall become an operational permit after the applicant notified the department that construction is completed and a departmental inspection reveals that the site has been developed according to plans and necessary equipment is on site.

Section 4. A new section of KRS Chapter 224 is created to read as follows:

No person shall establish, construct, operate, maintain, or permit the use of a solid waste disposal site or facility without first having obtained a permit from the department to establish, construct, maintain, operate or permit the use of the site or facility pursuant to rules and regulations promulgated by the department.

Section 5. A new section of KRS Chapter 224 is created to read as follows:

(1) Hazardous waste means any substance or combination of substances depositions of which may create a threat to public health or to animal and aquatic life forms.

(2) No person engaged in collecting, hauling and the disposal of hazardous wastes for hire on a seasonal or continuing basis shall dump at any permitted or unpermitted disposal facility after July 1, 1974

without having first obtained a permit from the department. The permit shall authorize the operator to engage in collecting, hauling and the disposal of hazardous wastes for a period of one year from the date of its issuance.

(3) A person desiring a permit shall file an application which shall state:

- (a) The business name and address and phone number of the hauler;
- (b) The locations where the hauler shall dispose of hazardous wastes;
- (c) The name of any person contracting with the hauler for the disposal of hazardous wastes; and
- (d) The nature of the hazardous waste.

(4) Hazardous waste may only be disposed of at an approved site or facility.

Section 6. A new section of KRS Chapter 224 is created to read as follows:

The commissioner may require licensing of a hauler of any substance which poses a threat or hazard to the environment and public health.

HB 180, AN ACT relating to the sale of livestock and grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 260 is created to read as follows:

(1) Any transfer of livestock or grain subject to the lien of a security interest shall require the transferor to notify his creditor and the transferee of the intended transfer at least 1 day prior to the transfer.

(2) Whenever any livestock or grain is offered for sale, the sales consignment receipt, weight ticket or other document identifying the item, shall state whether or not the item is mortgaged. This information shall be furnished by the seller. Any falsification thereof shall be a violation of this Act.

(3) Any financial institution possessing a security interest in livestock or grain shall file quarterly with all livestock and grain markets in an area designated by the Department of Agriculture a list of all such liens and identification of the items subject to the liens. Failure to comply with this requirement shall cause the financial institution to relinquish any rights it may possess concerning the secured item against a third party good faith purchaser or the market where the item was sold.

(4) Before a secured party possessing a lien against livestock or grain that has been sold without the debt to the secured party being discharged may bring an action against the purchaser or selling agent of the livestock or grain, he shall pursue his remedy against his debtor to the point where a judgment is rendered on the merits or the suit is dismissed with prejudice.

(5) Any party who violates any provision of this Act shall, for each offense, be fined not more than \$500 or imprisoned for not more than six months, or both.

The Committee Substitute No. 1 to **HB 180** is as follows:

HB 180, AN ACT relating to the sale of livestock and grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 355 is created to read as follows:

Before a secured party possessing a lien against livestock or grain that has been sold without the debt to the secured party being discharged may bring an action against the purchaser or selling agent of the livestock or grain, he shall pursue his remedy against his debtor to the point where a judgment is rendered on the merits or the suit is dismissed with prejudice.

HB 207, AN ACT relating to labeling of honey.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.175 is amended to read as follows:

The following acts and the causing thereof within the commonwealth of Kentucky are hereby prohibited:

- (1) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) The adulteration or misbranding of any food, drug, device, or cosmetic;
- (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of KRS 217.075;
- (5) The dissemination of any false advertisement;
- (6) The refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to records or evidence, as authorized by KRS 217.155;
- (7) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the commonwealth of Kentucky from whom he received in good faith the food, drug, device, or cosmetic;
- (8) The removal or disposal of a detained or quarantined article in violation of KRS 217.115;
- (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being adulterated or misbranded;
- (10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under the provisions of KRS 217.005 to 217.215;
- (11) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that any application with respect to such drug is effective under KRS 217.075, or that such drug complies with the provisions of such section;
- (12) The manufacture, sale or exchange of any filled milk;
- (13) The manufacture, mixing, compounding, selling, or offering for sale of any flour unless the same is enriched; Provided That this prohibition shall not apply to flour sold to bakeries or other commercial secondary processors, which flour is used only in the production of enriched flour or enriched bread or in the manufacture of products not required to be enriched;
- (14) The manufacture, baking, sale, or offering for sale of any bread except bread conforming to the definition of enriched bread; [.]
- (15) *The packaging and labeling of any product as "honey" or "imitation honey" or to use the word honey in any prominent location on the label of such product or to sell or offer for sale any product which is labeled "honey" or "imitation honey" or which contains a label with the word "honey" prominently displayed thereon, unless such product is pure honey manufactured by honeybees.*

HB 249, AN ACT relating to strip mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

- (1) No operator shall engage in strip mining without having first obtained from the department through the division a permit designating the area of land affected by the operation. The permit shall authorize the operator to engage in strip mining upon the area of land described in his application for a period of one year from the date of its issuance;
- (2) An operator desiring a permit shall file an application which shall state:
 - (a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;
 - (b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within five hundred (500) feet of any part of the affected area;
 - (c) The owner or owners of the coal, to be mined;
 - (d) The source of the applicant's legal right to mine the coal on the land affected by the permit;
 - (e) The permanent and temporary post office addresses of the applicant;
 - (f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(3) The application for a permit shall be accompanied by two copies of a United States geological survey topographic map on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map;

(4) The application for a permit shall be accompanied by two copies of an enlarged United States geological survey topographic map meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS chapter 322. The certification shall be in the form as provided in subsection (5) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and within five hundred (500) feet of any part of the affected area;

(d) Be of a scale of not less than four hundred (400) feet to the inch and not to exceed six hundred and sixty (660) feet to the inch;

(e) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name;

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge;

(5) The certification of the maps by the professional engineer shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the strip mining laws of this state." The certification shall be signed and notarized. The division may reject any map as incomplete if its accuracy is not so attested;

(6) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto;

(7) A basic fee of one hundred and fifty dollars (\$150) plus thirty-five dollars (\$35.00) for each acre or fraction thereof of the area of land to be affected by the operation shall be paid before the permit required herein shall be issued. The operator shall file with the division a bond payable to the commonwealth of Kentucky with surety satisfactory to the division in the penal sum to be determined by the department on the recommendation of the director of not less than *five hundred dollars (\$500)* [two hundred dollars (\$200)] nor more than *one thousand five hundred dollars (\$1,500)* [one thousand dollars (\$1,000)] for each acre or fraction thereof, of the area of land affected, with a minimum bond of *five thousand dollars (\$5,000)* [two thousand dollars (\$2,000)], conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond within the above limits, the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required. In a particular instance where the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum.

Section 2. KRS 350.070 is amended to read as follows:

The division may increase or reduce the area of land affected by an operation under a permit on application by an operator, but an increase shall not extend the period for which an original permit was issued. An operator may, at any time within one year from the date of issuance of the permit, apply to the division for an amendment of the permit so as to increase or reduce the acreage affected by it. The operator shall file an application and map in the same form and with the same content as required for an original application under this chapter and shall pay a basic fee of one hundred and fifty dollars, plus a fee of thirty-five dollars for each acre or fraction of acre for the increase requested, and shall file with the division a supplemental bond in the amount to be determined under the provisions of KRS 350.060 for each acre or fraction of an acre of the increase approved. If the division approves a reduction in the acreage covered by the original or supplemental permit, it shall release the bond for each acre reduced, but in no case shall the bond be reduced below *five thousand dollars (\$5,000)* [two thousand dollars], except as provided in subsection (7) of KRS 350.060. If the division approves a reduction in acreage covered by the original or supplemental

permit, it shall transfer the acreage fee for each acre reduced to acreage fees in subsequent permit applications by the operator.

Section 3. KRS 350.085 is amended to read as follows:

(1) No application for a permit shall be approved by the division if there is found on the basis of the information set forth in the application that the requirements of this chapter or regulations will not be observed or that there is not probable cause to believe that the proposed method of operation, backfilling, grading or reclamation of the affected area can be carried out consistent with the purpose of this chapter;

(2) If the division finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the commonwealth with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides or acid water pollution cannot feasibly be prevented, the division may delete such part of the land described in the application upon which such overburden exists;

(3) If the division finds that the operation will constitute a hazard to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake or other public property, the division shall delete such areas from the permit application before it can be approved;

(4) The division shall not give approval to strip mine any area which is within one hundred (100) feet of any public road, stream, lake or other public property and shall not approve the application for a permit where the strip mining operation will adversely affect *a wild river established pursuant to KRS Chapter 146*, or a state, national or interstate park unless adequate screening and other measures as approved by the department are incorporated into the permit application.

Section 4. KRS 350.093 is amended to read as follows:

(1) On lands where the method of operation does not produce a bench (area strip mining), complete backfilling shall be required, beginning at or beyond the top of the highwall and sloped to the toe of the spoil bank at a maximum angle not to exceed the approximate original contour of the land with no depressions to accumulate water. Such backfilling shall eliminate all highwalls and spoil peaks. Whenever directed by the division, the operator shall construct in the final grading, such diversion ditches or terraces as will control the water runoff on long uninterrupted slopes. Additional restoration work may be required by the division according to regulations adopted by the department.

(2) On lands where the method of operation produces a bench (contour strip mining), terrace backfilling shall be required and performed as follows:

(a) All highwalls must be reduced or backfilled. The steepest slope of the reduced or backfilled highwall and of the outer slope of the fill bench shall be no greater than forty-five degrees (45) from the horizontal; provided, however, if the highwall is composed of solid rock and sufficient soil is not available to backfill or cover the solid rock suitable to establish vegetative cover, the department, by regulation, may make modifications to the requirements of this section;

(b) The table portion of the restored area shall be a terrace [with a slope toward the reduced highwall of not greater than ten degrees (10)];

(c) The restored area shall have a minimum depth of four (4) feet of fill over the floor of the pit from which the coal has been removed;

(d) There shall be no depressions to accumulate water but lateral drainage ditches connecting to natural or constructed waterways shall be constructed whenever directed by the division;

(e) Additional restoration work may be required by the division according to regulations adopted by the department;

(f) In addition to the backfilling and grading requirements above, the operator's method of operation on steep slopes may be regulated and controlled according to regulations adopted by the department. Such regulations may limit bench widths, control the amount of overburden to be placed beyond the solid bench, prohibit any overburden from being placed beyond the solid bench on precipitous slopes as defined by the department, or require any measure whatsoever to accomplish the purpose of this chapter.

(3) An operator may propose alternative plans other than backfilling where a water impoundment is desired, if such restoration will be consistent with the purpose of this chapter. Such plans are to be submitted to the division, and if such plans are approved by the department and complied with within the time limits as may be determined by the department as being reasonable for carrying out such plans, the backfilling requirements of this chapter may be modified by the department.

(4) As determined by regulations of the department, time limits shall be established requiring backfilling, grading and planting to be kept current. All backfilling and grading shall be completed before necessary equipment is moved from the operation.

(5) If the operator or other person desires to conduct drift mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to backfill as herein provided for until such drift mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of such locations shall be described and designated on the map attached thereto.

(6) When the backfilling and grading have been completed and approved by the division, the director shall release the bond which was filed for that portion of such operation in its full amount less *two hundred dollars (\$200)* [one hundred dollars (\$100)] per acre, which shall be retained by the division until such time as the planting and revegetation is done according to law and approved by the division, at which time the director shall release the bond in the remaining amount of *two hundred dollars (\$200)* [one hundred dollars (\$100)] per acre.

Section 5. KRS 350.110 is amended to read as follows:

If the division authorizes an operator to defer planting to provide vegetative cover for an area of land, it shall set the time within which such planting shall be carried out. If the operator has carried out on that area of land the method of operation, backfilling, grading and reclamation plans approved by the division other than the planting, the division shall issue to the operator and to his surety a release of his surety bond or other securities held on deposit for each acre of land for which such method of operation, backfilling, grading and reclamation have been carried out, less the sum of *two hundred dollars (\$200)* [one hundred dollars (\$100)] for each acre, but in no case shall the bond be reduced below *two thousand dollars (\$2,000)* [one thousand dollars (\$1,000)] except as provided in KRS 350.060. The remaining amount of the bond of *two hundred dollars (\$200)* [one hundred dollars (\$100)] for each acre of land affected shall remain in the possession of the division until a satisfactory planting plan has been carried out, or until it has been forfeited by the operator. If the remainder is forfeited, it shall be expended by the division in a planting program for the area of land for which it has been posted. If the operator does not meet the planting requirements but does not want his bond forfeited, he may pay to the division a sufficient sum to cover the remaining reclamation costs and the bond filed by him as surety may then be released by the division.

Section 6. KRS 350.130 is amended to read as follows:

(1) In any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the division and the department have not been complied with within the time limits set by the division or the department or by this chapter, the division shall cause a notice of noncompliance to be served upon the operator, or where found necessary, the director shall order the suspension of a permit. Such notice or order shall be handed to the operator in person or served by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the division and the department. If the operator has not reached an agreement with the division or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the permit may be revoked by order of the department and the performance bond shall then be forfeited to the division.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture.

(3) An operator whose mining permit has been revoked *or suspended* shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this chapter in respect to *all* [former] permits issued him, provided, further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator has paid such sum as the department finds is adequate to reclaim such lands. The division shall not issue any additional permits to any operator who has repeatedly been in noncompliance or violation of this chapter, or who has had permits revoked on more than three occasions.

The Committee on Highways and Traffic Safety reported **HB 179**, with Committee Amendment attached thereto, and **HB 212** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 179, AN ACT relating to motor vehicle inspection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.645 is amended to read as follows:

(1) Every motor vehicle, trailer, semitrailer and pole trailer registered in the commonwealth shall be annually inspected for safety and an official certificate of inspection and approval shall be obtained for each such vehicle.

(2) Such inspections shall be made and such certificates obtained with respect to the brakes, lights, turn signals (if any), steering, sound devices, glass, mirror, exhaust system, windshield wipers, and tires.

(3) In the event repair or adjustments of any vehicle or its equipment is found necessary upon inspection, the owner of said vehicle may obtain such repair or adjustment at any place he may choose, within five (5) days but in every event an official certificate of inspection and approval shall be obtained from an official permit holder within five (5) days before such vehicle shall be operated upon the highways of this commonwealth. The fee shall be collected at the time of the original inspection. No additional fee shall be charged if vehicle is repaired and returned to same inspection station within five (5) days.

(4) The department shall suspend the registration of any vehicle which is determined to be in such unsafe condition as to constitute a menace to safety, or which after notice and demand is not equipped as required by KRS 189.641 to 189.647, 189.651 to 189.659 and 189.730 or for which a required certificate has not been obtained.

(5) *In any proceeding against a motorist for driving with an expired inspection certificate, the penalty prescribed in KRS 189.993 shall be waived if, within ten days, the accused presents an inspection certificate to the court showing compliance with this section.*

(6) [(5)] The commissioner may, by regulation, authorize the acceptance in the commonwealth of a certificate of inspection and approval issued in another state having an inspection law similar to this commonwealth and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this commonwealth during the time an inspection was required.

The Committee Amendment to **HB 179** is as follows:

Amend printed copy of House Bill 179, page 2, line 12, by inserting after the word "shall" the words "*for the first offense*,".

HB 212, AN ACT relating to the urban highway fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 177 is created to read as follows:

(1) By the first Monday in May of every year, the department of highways, through the commissioner or a duly authorized representative, and the county judge and fiscal court of a county containing an "unincorporated urban place" shall, before agreeing on any and all projects to be financed with funds provided by KRS 177.365, jointly conduct public hearings on such proposed projects for each "unincorporated urban place" within the county. The public hearings shall be conducted in a public building located within the boundaries of each "unincorporated urban place." Notification of the public hearing shall be published not less than ten (10) nor more than thirty (30) days prior to each hearing in the newspaper having the greatest and most frequent circulation within the boundaries of the respective "unincorporated urban place." Cost of publication shall be borne by the county treasury.

(2) By the first Monday in June of every year, the county judge and fiscal court of a county containing an "unincorporated urban place" shall submit a plan to the department of highways containing their selection of urban roads and streets lying within "unincorporated urban places" for construction, reconstruction and maintenance to be funded by moneys allocated under the provisions of KRS 177.365 and 177.366. When drafting the plan, the county judge and fiscal court shall take into consideration the comments made by residents of "unincorporated urban places" during the public hearings held pursuant to subsection (1) of this section.

(3) Prior to July 1 of every year, the department of highways and the fiscal court of a county containing an "unincorporated urban place" shall agree upon the projects to be financed by the urban highway fund during the ensuing fiscal year by agreement signed by the commissioner of highways and the county judge of a county containing an "unincorporated urban place."

(4) The department of highways shall proceed to construct, reconstruct or maintain or cause to be constructed, reconstructed or maintained the projects agreed to under the provisions of this section. If agreements cannot be reached under this section, the department of highways shall make determination of the projects to be funded by moneys allocated to various "unincorporated urban places" under the provisions of KRS 177.365 to 177.368.

Section 2. KRS 177.367 is amended to read as follows:

(1) On and after July 1, 1973, the Department of Highways, through a duly authorized representative, shall at least once each year consult with the chief executive officer and legislative body of incorporated areas [and the county judge and fiscal court of "unincorporated urban places"] within which monies are to be allocated under KRS 177.366 for the purpose of receiving recommendations for the selection of urban roads

and streets, lying within such areas, for construction, reconstruction and maintenance.

(2) The Department of Highways and the legislative body of an incorporated area [or the fiscal court of "unincorporated urban places"] shall agree upon the projects to be financed by the urban highway fund during the ensuing fiscal year by agreement signed by the Commissioner of Highways and the chief executive officer of the incorporated area [or the county judge of the "unincorporated urban place".]

(3) The Department of Highways shall proceed to construct, reconstruct or maintain or cause to be constructed, reconstructed or maintained the projects agreed to under the provisions of this section. If agreements cannot be reached under this section, the Department of Highways shall make the determination of the projects to be funded by monies allocated to various incorporated *areas* [and "unincorporated urban places"] under the provisions of KRS 177.365 to 177.368.

The Committee on Health and Welfare reported **HB 58** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 58, AN ACT relating to membership of county boards of health in counties containing a first-class city.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 212.380 is amended to read as follows:

(1) Said board shall be composed of *ten* [eight] members, two of whom shall be the mayor of such city, and the county judge of such county, as members ex officio, and *eight* [six] of whom shall be appointed by the joint action of the mayor of such city and the county judge of such county. Each appointive member shall be not less than thirty years of age, intelligent, discreet, and shall have been a continuous resident of such county for at least two years prior to the date of his or her appointment. At least one and not more than three of said appointive members shall be physicians, one of said appointed members shall be a dentist, and at least one of said appointive members shall be a registered nurse. All appointive members shall be eligible for reappointment.

(2) [The original appointments to fill the five (5) appointive positions on said board, provided for and created herein, shall be made in the following manner: Within thirty (30) days after February 11, 1942, the mayor and the county judge shall appoint the five (5) appointive members, one (1) for a term expiring June 30, 1943, two (2) for terms expiring June 30, 1944, and two (2) for terms expiring June 30, 1945.] At the expiration of each of the [aforesaid] terms of office of said *eight* [five (5)] appointive members [originally appointed], the successor to each [such] member shall be appointed by said county judge and said mayor for a term of office of four (4) years and until his successor is appointed and qualified.

(3) *The two appointments which increase the appointed members from six to eight shall both occur on July 1, 1974, one of which shall be for a term expiring on June 30, 1978, the other of which shall be for a term expiring on June 30, 1975. Each subsequent appointment to the board shall be for a term of four years.*

Calendar

HB 98, HB 108, HB 117, HB 41 with Committee Amendment attached thereto, **HB 237, HB 262, HB 35, HB 231, SB 15, and HR 28** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Loudon moved the adoption of the following Legislative Citation No. 29:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Carrollton for its selection as an All Kentucky City for 1973. This body commends the Chamber of Commerce and the citizens of Carrollton for their efforts in securing this award. (Sponsored by Representative Loudon)

Agreed.

Senate Message

Announcing passage of **SB 70**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 4**, **HB 5**, and **HB 66** have been examined and found correctly enrolled. **HB 4**, **HB 5** and **HB 66** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 4, **HB 5**, and **HB 66** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (continued)

Representative McBride requested that his name be added as a co-sponsor of **HB 412**.

Representative Van Horn moved that when the House adjourns today, it do so in honor of Governor Goebel. Agreed.

Representative Karem requested that his name be added as a co-sponsor of **HB 125**.

Representative Lindsay requested that he be recorded as voting "aye" on **HB 26**, **HB 45**, **HB 86**, **HB 135** and **HB 248**.

Representative Thomas requested that his name be added as a co-sponsor of **HB 412**.

Representative Guenther moved the adoption of the following Legislative Citation No. 30:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Trinity High School of Louisville, Kentucky, for having won the Class AAA State Football Championship for two consecutive years--1972 and 1973. This body commends the members of the Trinity football team and Coach Dave Moore for this accomplishment and extends best wishes for future success. (Sponsored by Representative Guenther)

Agreed.

Representative Paxton moved the adoption of the following Legislative Citation No. 24:

The House of Representatives of the Commonwealth of Kentucky hereby honors Central City for having been selected an All Kentucky City for 1973 by the Kentucky Chamber of Commerce. This body commends the Chamber of Commerce and the citizens of Central City for their efforts in receiving this award. (Sponsored by Representative Paxton)

Agreed.

Representative Watkins moved that a call of the roll be taken for co-sponsors of **HB 412**.

The following members voted to co-sponsor **HB 412**: Representatives Adams, Dawahare, Denham, Foster, Hughes, Imes, McBee, McBride, Overstreet, Paxton, Stone, Vincent.

Representative Quickert requested that his name be added as a co-sponsor of **HB 259**.

Representative Hughes requested that he be recorded as voting "aye" on **HB 145**.

Representative Morgan moved that **HB 80** be returned to the Committee on Business Organizations and Professions. Agreed.

Orders of the Day

Representative Swinford moved that **HB 174** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Mann moved the adoption of the following Floor Amendment No. 1 to **HB 174**:

Amend printed copy of House Bill 174, page 3, line 24, by deleting "registered", and inserting "certified" in lieu thereof.

and, on page 4, line 15, by deleting "11", and inserting "12" in lieu thereof.

and, on page 5, line 23, by deleting "14", and inserting "15" in lieu thereof.

Agreed.

Representative Mann moved that **HB 174** as amended be placed upon its passage.

On the roll call the vote was yeas 66-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Givhan, Hardin, Hellard, Hinkle, Hislope, Holloway, Hopkins, Isler, Kafoglis, Karem, Kenton, Kidd, King, Loudon, Mann, Mason, May, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Reynolds, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wible, Yates. Nays 11-Allen, Bruce, Clapp, DeMarcus, Graves, Hancock, Holbrook, Imes, Lindsay, Richardson, Whitfield.

HB 174 as amended was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 174** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 22** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the following Floor Amendment No. 1 to **HB 22**:

Amend printed copy of House Bill 22, page 1, line 3, after "law" add "or Federal regulation".

Agreed.

Representative Clarke moved that **HB 22** as amended be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 2-Van Horn, J. White.

HB 22 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 22** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative McBride moved that the rules be suspended for the purpose of casting a vote. Agreed.

Representative McBride requested that he be recorded as voting "aye" on **HB 174**.

Representative Swinford moved that **HB 24** be taken from the Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Siemens moved that **HB 24** be placed upon its passage.

Representative Swinford moved that consideration of **HB 24** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that consideration of **HB 25**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 34** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved that **HB 34** be placed upon its passage.

On the roll call the vote was yeas 75-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lindsay, Little, Loudon, Mann, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 5-DeMarcus, Holbrook, King, Lewis, Mason.

HB 34 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 34** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **SB 52** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Paxton moved that **SB 52** be placed upon its passage.

On the roll call the vote was yeas 79-Allen, Bennett, Benson, Beshear, Blandford, Blume, Bowles, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Isler, Kafoglis, Kareem, Kenton, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, Van Horn, Watkins, J. White, Whitfield, Wible, Yates. Nays 8-Blythe, Brewer, Dawahare, Givhan, Hughes, Hurst, Maynard, Stone.

SB 52 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 52** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that the House concur in the following Senate Amendment to **HB 184**:

Amend printed copy of House Bill 184 as follows:

Page 2, following line 22 by inserting before line 23 the following:

"Section 2. A new section of KRS Chapter 189 is created to read as follows:

This act shall not apply to emergency vehicles while being operated under the provisions of KRS 189.910-189.950."

And on page 2, line 23, by changing Section "2" to Section "3".

On the roll call the vote was yeas 86-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Chandler, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, J. White, Whitfield, Wible, Yates. Nays 1-Graves.

The Senate Amendment to **HB 184** was adopted.

Representative Swinford moved that **HB 184** as amended be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Bruce, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 2-Graves, Robinson.

HB 184 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 184** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Burch requested that his name be added as a co-sponsor of **HB 22**.

Representative Swinford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Priddy requested that she be recorded as voting "yea" on **HB 174**, **HB 22**, and **HB 34**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 424, by Representatives Freeman and Loudon: AN ACT relating to documents required to be notarized.

HB 425, by Representatives Schmidt, Holloway, and Davis: AN ACT relating to the state fungus.

HB 426, by Representatives Bennett, Dunn, Chandler and Quickert: AN ACT relating to coroners.

HB 427, by Representative Morgan: AN ACT relating to public school employees.

HB 428, by Representative Siemens: AN ACT relating to motor vehicle registration.

HB 429, by Representative Wible: AN ACT relating to civil service.

HB 430, by Representatives Kenton, Dietz, Donnermeyer, Isler, McBee and Mann: AN ACT relating to jailer's fees.

HB 431, by Representative Harris: AN ACT relating to sales and use taxes.

HB 432, by Representatives Lewis and Loudon: AN ACT relating to circuit court clerk fees.

HB 433, by Representative Lewis: AN ACT relating to individual income tax.

HB 434, by Representative Lewis: AN ACT relating to the judicial sale of real property.

HB 435, by Representatives Robinson, Imes, Allen, Adams, Denham, Freeman, Gay, Hislope, Holloway, Lewis and Morgan: AN ACT relating to the Council on Public Higher Education's determination of required fees at institutions of higher education.

HB 436, by Representatives Kleier, Isler, Beshear, Brewer, Burch, R. Brown, DeMarcus, Foster, Gay, Hislope, Karem, Kenton, Little, Mann, Maynard, McBrayer, Priddy, Reynolds, Romines, Schmaedecke, Stephens, Stone, Van Horn, Watkins, J. White and Whitfield: AN ACT relating to revenue and taxation.

HB 437, by Representatives Freeman, Gay and Hislope: AN ACT relating to public assistance.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 308, HB 309.**

Announcements (continued)

Representative Clarke announced a continuation of the Budget Hearing in Senate Chamber on February 1, 1974 at 12:30 p.m.

Representative Wible announced a joint State Government Committee meeting on Tuesday, February 5, 1974 at 1:00 p.m. in Room 327.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 a.m., Friday, February 1, 1974.

On the roll call the vote was yeas 70-Adams, Bennett, Benson, Beshear, Blume, Blythe, Bowles, R. Brown, Bruce, Chandler, Clarke, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Head, Hellard, Hinkle, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, G. White, J. White, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 1, 1974

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend Beryl Spross, Church of the Nazarene, Frankfort.

The roll was called. All present except Representatives Brewer, E. Brown, Hurst, McGill, Smith, Turner and Whitfield.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Brewer, E. Brown, Hurst, McGill, Smith, Turner and Whitfield.

Representative Hughes moved that the reading of the Journal of January 31, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 438, by Representative Swinford: AN ACT relating to power plant siting.

HB 439, by Representatives Hinkle, Hislope, Donnermeyer, and Gay: AN ACT providing for the use of certified mail, return receipt requested, in lieu of registered mail.

HB 440, by Representatives Imes and Hughes: AN ACT relating to taxation of movie theaters showing "X" and "R" rated movies.

HB 441, by Representative Freeman: AN ACT relating to coal mine safety.

HB 442, by Representative Imes: AN ACT relating to fireworks.

HB 443, by Representative Arnold: AN ACT relating to the practicing of dentistry in professional service corporations.

HB 444, by Representatives Schmaedecke and Donnermeyer: AN ACT relating to the sale of malt beverages by persons under the age of twenty.

HB 445, by Representatives Schmaedecke and Dietz: AN ACT relating to police and firemen pensions in cities of the third class.

HR 37, by Representatives Van Horn and G. White: A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 416, HB 419, HB 431, HB 433, HB 436.**

Banking and Insurance: **HB 412.**

Business Organizations and Professions: **HB 409, HB 418.**

Cities: **HB 410, HB 429.**

Counties and Special Districts: **HB 430.**

Education: **HB 408, HB 413, HB 427, HB 435, HB 437.**

Elections and Constitutional Amendments: **HB 415, HR 35.**

Health and Welfare: **HB 402, HB 414, HB 417, HB 423.**

Highways and Traffic Safety: **HB 407, HB 421, HB 422, HB 428, HR 36.**

Judiciary: **HB 404, HB 405, HB 424, HB 426, HB 432, HB 434.**

Labor and Industry: **HB 403, HB 420.**

State Government: **HB 406, HB 411, HB 425.**

Report of Committees

The Committee on Rules reported **HB 213, HB 108, HB 117** and **HR 28** have been posted for passage in Orders of the Day, February 4, 1974.

The Committee on Rules reported **HB 237** has been recommitted to the Committee on Education with instructions to study the effect of this bill on higher education in Kentucky.

The Committee on Rules reported **HB 262** has been recommitted to the Committee on Education with instructions to study the effect of this bill on higher education in Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **SB 23.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 184** has been examined and found correctly enrolled. **HB 184** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 184 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 7 with Committee Substitute attached thereto, **HB 229** with Committee Amendment attached thereto, **HB 19** with Committee Substitute attached thereto, **HB 67, HB 72, HB 180** with Committee Substitute attached thereto, **HB 207, HB 249, HB 179** with Committee Amendment attached thereto, **HB 212** and **HB 58** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 52** has been examined and found correctly enrolled. **SB 52** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications

Representative Van Horn moved the reading of the following **HR 37**:

HR 37, A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

WHEREAS, February 2 is groundhog day; and

WHEREAS, this humble animal has since time immemorial, prognosticated climatic changes for mankind; and

WHEREAS, nowhere in the annals of recorded history have such prognostications been proven inaccurate, erroneous or false; and

WHEREAS, throughout the face of the earth, the minds and hearts of man this day eagerly await the result of this annual shadow boxing; and

WHEREAS, should he view with favor this simple tribute, all so eagerly awaiting would hope for his favorable prediction as a result hereof;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House adjourn this February 1, 1974, in honor of the humble Woodchuck with the hope for his favorable prediction of an early spring.

Agreed.

Representative Van Horn moved the adoption of **HR 37**.

On the roll call the vote was yeas 47-Adams, Arnold, Bennett, Beshear, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, DeMarcus, Foster, Freeman, Givhan, Hardin, Harris, Hinkle, Hughes, Kafoglis, Kareem, King, Kleier, Lindsay, Loudon, Mann, Mason, May, McBee, McBrayer, Morgan, Priddy, Reynolds, Romines, Sale, Sharpe, Siemens, Stephens, Stewart, Van Horn, Vincent Watkins, Wells, G. White, J. White, Wible. Nays 19-Benson, Bowles, Clarke, Denham, Donnermeyer, Dunn, Gay, Hancock, Head, Hellard, Imes, McBride, O'Brien, Pearman, Paxton, Richardson, Stone, Troop, Yates.

HR 37 was adopted.

Representative Chandler requested that his name be added as a co-sponsor of **HB 115** and **HB 336**.

Representative Burch requested that his name be added as a co-sponsor of **HB 22**.

Representative Givhan requested that his name be added as a co-sponsor of **HB 7**.

Representative Beshear requested that his name be added as a co-sponsor of **HB 229**.

Representative Sale requested that his name be added as a co-sponsor of **HB 435**.

Representative Romines requested that his name be added as a co-sponsor of **HB 331**.

Orders of the Day

Representative Swinford moved that **HB 24** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Siemens moved that **HB 24** be placed upon its passage.

On the roll call the vote was yeas 80-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard,

Hinkle, Hislope, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, G. White, Wible, Yates. Nays 8-Allen, Blythe, Guenthner, Holloway, Imes, Pearman, Robinson, Stephens.

HB 24 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 24** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 25**, with Committee Amendment attached thereto, be recommitted to the Committee on Labor and Industry. Agreed.

Representative Swinford moved that **HB 114** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Clarke moved that **HB 114** be placed upon its passage.

On the roll call the vote was yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 2-Guenthner, Harris.

HB 114 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 114** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 227** be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

The Clerk announced a meeting of the Subcommittee of the Committee on State Government, Thursday, February 7, 1974, 1:00 p.m., Room 307.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 446, by Representatives Stephens, G. White, Hurst and Hancock: AN ACT relating to the liability of partners.

HB 447, by Representative Clarke: AN ACT relating to revenue and taxation.

HR 38, by Representative Bruce: A RESOLUTION expressing support for the Council on Public Higher Education efforts to arrange a reciprocal tuition program with Tennessee.

HR 39, by Representative Kafoglis: A RESOLUTION directing the Legislative Research Commission, with the cooperation and assistance of the Council on Public Higher Education, to study the inequities in retirement plans of institutions of public higher education.

Representative Hancock moved that the rules be suspended for the purpose of a request to co-sponsor a bill. Agreed.

Representative Hancock requested that his name be added as a co-sponsor of **HB 7**.

Representative Foster requested that his name be added as a co-sponsor of **HR 38**.

Representative Paxton filed Floor Amendment No. 1 to **HB 9**.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 p.m., Monday, February 4, 1974.

On the roll call the vote was yeas 75-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blume, Bowles, R. Brown, Bruce, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Wells, J. White, Wible, Yates. Nays 3-Blythe, Clarke, Imes.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 4, 1974

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Representative Hislope.

The roll was called. All present except Representatives Allen, E. Brown, Imes and McGill.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Allen, E. Brown, Imes and McGill.

Representative Hughes moved that the reading of the Journal of February 1, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 448, by Representatives Karem and Hellard: AN ACT relating to presenting false or misleading information or misrepresenting facts.

HB 449, by Representative Karem: AN ACT relating to strip mining.

HB 450, by Representatives Romines, Bennett, Blandford, Chandler, Denham, Dunn, Guenther, Head, Pearman, Priddy, Quickert, Rattliff, Siemens, Thomas and Yates: AN ACT relating to financial disclosure.

HB 451, by Representatives Blume and McBride: AN ACT relating to power of the Attorney General.

HB 452, by Representatives Guenther, Karem, Blythe, Holbrook, Holloway, Overstreet, Schmaedecke and Schmidt: AN ACT relating to elections.

HB 453, by Representatives Richardson and Hinkle: AN ACT relating to designation of the Kentucky Coffee Tree as the official tree of the Commonwealth.

HB 454, by Representative Quickert: AN ACT relating to special law enforcement officers.

HB 455, by Representative Kafoglis: AN ACT relating to police judges in cities of the second class.

HB 456, by Representative Quickert: AN ACT relating to the sale of alcoholic beverages in cities of the first class.

The Speaker announced that without objection, **HR 34** has been returned to the Committee on Committees. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 447**.

Agriculture and Natural Resources: **HB 441**.

Business Organizations and Professions: **HB 446**.

Cities: **HB 445**

Education: **HR 38**.

Judiciary: **HB 439, HB 440**.

Labor and Industry: **HB 442, HB 444**.

State Government: **HR 39**.

Public Utilities and Transportation: **HB 438**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Banking and Insurance: **HB 233, HB 346, HB 343**.

Education: **HB 335, HB 338, HB 339, HR 38, HB 344, HB 362, HB 363, HB 371, HB 385, HB 399, HR 31, HR 34**.

Counties and Special Districts: **HB 384, HB 388**.

Report of Committees

The Committee on Rules reported **SB 15, HB 7** with Committee Substitute attached thereto, **HB 67, HB 72, HB 249** and **HB 58** have been posted for passage in Orders of the Day, February 5, 1974.

The Committee on Rules reported **HB 180**, with Committee Substitute attached thereto, has been recommitted to the Committee on Judiciary for the study of form and legality.

Motions, Petitions and Communications

Representative Quickert moved that the rules be suspended to resolve into a Committee of the Whole to consider **SCR 9**.

Representative DeMarcus moved that consideration of **SCR 9** be made a Special Order on February 11 at 3:30 P.M.

Representative Karem moved that the motion that the rules be suspended to resolve into a Committee of the Whole to consider **SCR 9** be laid on the table.

Representative Van Horn moved that the House recess.

Representative Robinson moved that the House adjourn until 3:00 p.m on February 5, 1974.

On the roll call the vote was yeas 4-Freeman, Kafoglis, Kleier, Turner. Nays 84-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Karem, Kidd, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, J. White, Wible, Yates.

The motion to adjourn was rejected.

On the roll call the vote was yeas 9-Bruce, Donnermeyer, Hopkins, Hughes, Mann, Schmaedecke, Van Horn, G. White, J. White. Nays 75-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Isler, Kafoglis, Karem, Kidd, Lewis, Little, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Vincent, Watkins, Wible, Yates.

The motion to recess was rejected.

On the roll call the vote was yeas 53-Adams, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Chandler, Clarke, Crupper, Dawahare, Dunn, Foster, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hopkins, Kafoglis, Karem, Kidd, Lewis, Lindsay, Mason, McBrayer, McBride, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Romines, Sale, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Troop, Turner, Vincent, Watkins, G. White, Wible, Yates. Nays 35-Benson, Bowles, Bruce, Burch, Clapp, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Freeman, Gay, Givhan, Guenther, Holbrook, Hughes, Hurst, Isler, Kleier, Little, Mann, May, Maynard, McBee, Morgan, Nett, Quickert, Rattliff, Roberts, Robinson, Schmaedecke, Schmidt, Stone, Thomas, Van Horn.

The motion that the motion that the rules be suspended to resolve into a Committee of the Whole to consider **SCR 9** be laid on the table was adopted.

Representative Swinford moved the reading of Legislative Citations. Agreed.

Representative Freeman moved the adoption of the following Legislative Citation No. 31:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Cumberland for its selection as an All Kentucky City of 1973. This body commends Jane Bowen, T. M. Bowen, Ralph Anderson, C. R. Chrisman, Bruce Ayers, the Tri-City Chamber of Commerce, and the Lions Club for their efforts in attaining this award. (Sponsored by Representative Freeman)

Agreed.

Senate Message

Announcing passage of **SB 86**.

Representative Mason moved that when the House adjourns, it do so in honor of Mr. R. Louden. Agreed.

Representative Hughes requested that his name be added as a co-sponsor of **HR 29**.

Orders of the Day

Representative Swinford moved that consideration of **HB 227** and **HB 213** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 108** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Karem moved that **HB 108** be placed upon its passage.

On the roll call the vote was yeas 72-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Chandler, Clarke, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Lindsay, Louden, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmidt, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Vincent, J. White, Wible, Yates. Nays 9-Davis, Hislope, Little, McBrayer, Overstreet, Roberts, Thomas, Van Horn, Watkins.

HB 108 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 108** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 117** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 117** be placed upon its passage.

On the roll call the vote was yeas 88-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 0.

HB 117 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 117** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HJR 28** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hellard moved that **HJR 28** be placed upon its passage.

On the roll call vote was yeas 82-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hinkle, Hislope,

Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Wible. Nays 2-Little, Stewart.

HJR 28 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HJR 28** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 457, by Representatives Hislope, Blandford, DeMarcus, Denham, Freeman, Gay, Givhan, Hinkle, Kenton, Morgan, Quickert, Reynolds, Richardson, Watkins, Wells and G. White: AN ACT relating to the Judicial Retirement System.

HB 458, by Representative Lewis: AN ACT relating to official signs and notices.

HB 459, by Representative Schmaedecke: AN ACT relating to Commonwealth's Attorneys.

HB 460, by Representative Schmaedecke: AN ACT relating to tax liens.

HB 461, by Representative J. White: AN ACT relating to compensation of coroners.

HB 462, by Representatives Clarke and Swinford: AN ACT relating to State Land Use Planning.

HB 463, by Representatives Dawahare, Freeman, Adams, Gay and Hislope: AN ACT relating to severance taxes.

HB 464, by Representative Lindsay: AN ACT relating to the fish and wildlife sources commission.

HB 465, by Representative Lindsay: AN ACT relating to strip mining.

HB 466, by Representatives Lewis, Beshear, Lindsay, Quickert and Stephens: AN ACT relating to administrative procedure.

HJR 40, by Representatives Freeman, Dawahare, Adams, Gay and Hislope: A JOINT RESOLUTION establishing the location of coal gasification plants.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 50, HB 264, HB 306, HB 316, SB 81.**

Appropriations and Revenue: **HB 88, HB 129, HB 294, HB 268, HB 247.**

Public Utilities and Transportation: **HB 365.**

Announcements

The Speaker announced a meeting of Committee Chairmen in the Speaker's office on Tuesday, February 5, 1974, at 1:30 P.M.

Representative Burch requested that his name be added as a co-sponsor of **HB 108, HB 117, and HR 28.**

Representative Clarke announced the budget hearing will be resumed at 9:00 A.M. on February 5, 1974, in the Senate Chamber.

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue, 10:30 A.M., February 5, 1974, Room 305.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Tuesday, February 5, 1974.

On the roll call the vote was yeas 87-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 5, 1974

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend Donald Frantz, Highland Christian Church, Frankfort.

The roll was called. All members present.

Representative Hughes moved that the reading of the Journal of February 4, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 467, by Representatives Karem, Blume, Holbrook, Paxton and Schmidt: AN ACT relating to interest and usuary.

HB 468, by Representatives Benson and Quickert: AN ACT relating to property taxes.

HB 469, by Representatives Hinkle, McBrayer and Reynolds: AN ACT relating to the use of school buses for older, handicapped and isolated persons.

HB 470, by Representatives Rattliff, Hislope, Arnold, Denham, Gay, Hancock, Imes, Mason, May, Overstreet, Richardson, Robinson, Sharpe, Smith and J. White: AN ACT relating to state legislative districts.

HB 471, by Representatives Whitfield and Bruce: AN ACT relating to exemptions from the motor vehicle usage tax.

HB 472, by Representatives R. Brown and Dawahare: AN ACT relating to motor vehicle usage tax.

HB 473, by Representatives R. Brown and Crupper: AN ACT relating to unemployment compensation.

HB 474, by Representatives Schmaedecke and May: AN ACT relating to educational benefits for Vietnam Era veterans.

HB 475, by Representative Allen: AN ACT relating to family farming.

HB 476, by Representative Siemens: AN ACT relating to the licensing of boiler and pressure vessel erectors and boiler and pressure vessel repair contractors.

HB 477, by Representatives Kenton, Benson, Blume, Burch, Dietz, Donnermeyer, Hopkins, Isler, Karem, Kidd, McBrayer, Priddy, Quickert, Romines, Siemens, VanHorn and Watkins: AN ACT relating to minimum wage.

HB 478, by Representative Pearman: AN ACT relating to agricultural marketing to help preserve the family farm.

HJR 41, by Representatives Reynolds and Swinford: A JOINT RESOLUTION directing a study of the financing of transportation in the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 449, HB 462, HB 464, HB 465, HR 40.**

Appropriations and Revenue: **HB 463.**

Business Organizations and Professions: **HB 456.**

Cities: **HB 455, HB 460, SB 105.**

Counties and Special Districts: **HB 461.**

Elections and Constitutional Amendments: **HB 450, HB 452.**

Health and Welfare: **HB 443, SB 70.**

Highways and Traffic Safety: **HB 458.**

Judiciary: **HB 454, HB 457.**

State Government: **HB 448, HB 451, HB 453, HB 459, HB 466, SB 86.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 42.**

Agriculture and Natural Resources: **HB 389, HB 352, HB 356, HB 359, HR 30, SR 1, HB 304.**

Judiciary: **HB 111, HB 342, HB 353, HB 355, HB 357, HB 367, HB 368, HB 374, HB 378, HB 379, HB 383, HB 386, HB 394, HB 398, HB 404, HB 405, HB 424, HB 426, HB 432, HB 434, HB 439, HB 440,**

SB 10.

State Government: **HB 366, HB 369, HB 381, HB 393, HB 406, HB 272, HB 425, HR 25, HR 32.**

Highways and Traffic Safety: **HB 337, SB 14.**

Report of Committees

The Committee on Rules reported **HB 98** and **HB 229** with Committee Amendment attached thereto have been posted for passage in Orders of the Day, February 6, 1974.

The Committee on Rules reported **HB 231** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Rules reported **HB 207** has been recommitted to the Committee on Business Organizations and Professions for the purpose of determining the affect on the interstate shipment of honey.

The Committee on Rules reported **HB 179**, with Committee Amendment attached thereto, has been recommitted to the Committee on Judiciary for study of form and legality and the affect it would have on federal highway funds.

The Committee on Education reported **HB 327** and **HB 362**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 327, AN ACT relating to school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled [for the unexpired term] by the other members of the board within ninety (90) days after the vacancy occurs. If the vacancy is not filled by the other members of the board within ninety (90) days, it shall be filled by the state board of education within thirty (30) days after information has been filed by any citizen of the district that the vacancy has existed for more than ninety (90) days. The member so chosen shall hold office [for the unexpired term and] until his successor is elected and has qualified.

(2) Any vacancy having an unexpired term of one year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the board of education or the state board of education to fill the vacancy.

HB 362, AN ACT relating to public school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

All appointments, promotions and transfers of principals, supervisors, teachers and other public school employees shall be made only upon the recommendation of the superintendent of schools, subject to the approval of the board. If the board of education cannot agree with the superintendent as to any legally qualified person recommended by the superintendent, the board of education may appeal to the state board of education to review the case and the decision of the state board of education shall be final. All employees of the board shall have such qualifications as are prescribed by law and by the regulations of the state board of education and of the employing board. Supervisors, principals, teachers and other employees may be appointed by the board of education for any school year at any time after *January 1* [April 1] next preceding

the beginning of the school year.

The Committee Amendment to **HB 362** is as follows:

Amend printed copy of House Bill 362 on page 1, line 17, by deleting "*January 1*" and by adding therefore "*February 1*".

The Committee on Appropriations and Revenue reported **HB 247** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 247, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, *sheriff, or deputy sheriff*, who works not less than forty hours per week, *elected to office or* employed by any county or city or by the state; "firefighter" means every full-time fireman who works not less than forty hours per week, employed by any county or city or by the state.

(2) The spouse of any police officer or firefighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of five thousand dollars, which sum shall be paid by the State Treasurer from the General Expenditure Fund of the State Treasury. If there is no surviving spouse, the payment shall be made to the surviving children.

(3) The benefits payable under this section are in addition to any benefits now or hereafter provided under any police or firemen's retirement or benefit fund established by the state, county, or any municipality.

The Committee on Business Organizations and Professions reported **HB 286** with the express of opinion that the same should not pass.

The Committee on Business Organizations and Professions reported **SB 23**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 23, AN ACT relating to the Kentucky Employees Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.700, unless the context otherwise requires:

(1) "System" means the Kentucky employees retirement system created by KRS 61.510 to 61.700;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.700, the members, officers and employees of the general assembly shall be deemed to be a department;

(4) "Examiner" means the medical examiner or examiners as provided in KRS 61.655;

(5) "Employee" means the members, officers and employees of the general assembly and every regular full-time appointed or elective officer or employee of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.700;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employee in such department, including the senate and the house of representatives;

(7) "State" means the commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, (except that for members, officers and employees of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid. Each member, officer and employee of the general assembly shall be credited with a month of service for each month he occupies such position during a legislative biennium;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employees of the general assembly this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; Provided, however, That each member, officer and employee of the general assembly shall be credited with a month of service for each month he occupied such position during a legislative biennium;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer [], *except that for members of the General Assembly it shall mean an assumed salary of \$15,000 per annum which shall include per diem and expense payments authorized by KRS Chapter 6.* The creditable compensation of members, officers and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money.

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Retirement allowance" means the retirement payments to which a member is entitled;

(16) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board;

(17) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.510 to 61.700;

(18) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(19) "Officers and employees of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums; and

(20) "Regular full-time positions" as used in KRS 61.150(5) shall mean all positions as set forth in KRS chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty.

Section 2. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths percent (1.6%) of final compensation multiplied by the number of years of service credit, *except that: [provided that the annual normal retirement allowance for each year a member has served as a member of the General Assembly shall not be less than \$110.]*

(a) *The annual normal retirement allowance for members of the General Assembly, who serves during the 1974 General Assembly, and will have eight years or more of total legislative service as of December 31, 1975, shall not be less than \$240 multiplied by the number of years of service as a member of the General*

Assembly:

(b) *The annual normal retirement allowance for members of the General Assembly who will have fewer than eight years of service as of December 31, 1975, shall be as prescribed in Chapter 116, Section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974.*

(c) The annual normal retirement allowance for a member with ten (10) or more years of service, at least one (1) of which is current service, shall not be less than \$512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement check.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25) greater or less than the amount of the initial retirement check.

Section 3. To implement the provisions of this Act, there is hereby appropriated to the Kentucky Employees Retirement System for the fiscal year 1975-76 the sum of \$251,003.

Section 4. In order that General Assembly membership in the Kentucky Employees' Retirement System can be put on a sound actuarial basis starting with the 1974 legislative session, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to **SB 23** is as follows:

Amend printed copy of **SB 23** on page 6, line 11, by striking the word "*serves*" and substituting therefor the word "*serve*"

and on page 8, following line 12, by adding a new section to read as follows:

"Section 5. Whereas, the appropriation set forth in Section 3 of this Act is for payment of the employees share of retirement contributions; and, whereas, additional appropriations are required for the purposes of this Act and to insure the actuarial soundness of the Kentucky Employees Retirement System, the following sums are appropriated out of the General Expenditure Fund in the State Treasury:

A. To the Kentucky Employees Retirement System for employer's and employees' shares, plus accrued interest:

1974-75..... \$864,112

B. To the Legislative Research Commission:

1973-74..... \$ 70,454

1974-75..... \$140,907

1975-76..... \$140,907

The amounts in subsection B shall be used solely for matching retirement contributions by members of the General Assembly under terms of this Act."

The Committee on Elections and Constitutional Amendments reported **HB 14**, **HB 49**, **HB 95** and **HR 29** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT relating to election expenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 125.017 is amended to read as follows:

The county board of elections shall, not later than September 20 of each year, establish the voting place in each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS Chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, *for which rent of not less than twenty dollars shall be paid*, shall be paid in the same manner as other election expenses.

Section 2. KRS 125.260 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer except as otherwise provided by law. In any election when candidates for city office are voted upon, the city shall bear its proportionate share of the cost of the election.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within 60 days following the date of the election, the county treasurer shall certify the amount of such expenses, indicating each item of expense separately, together with a statement of the number of precincts in the county, the date and kind of election to the Department of Finance. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the Department of Finance shall issue its warrant upon the State Treasurer in favor of the county treasurer for one-half of the amount of the expenses but not exceeding in any event an amount equal to *eighty-five* [fifty] dollars for each precinct in the county. All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of such county; and payments to any county shall be terminated whenever such county fails to pay any part of the rentals required for any effective period of the lease.

Section 3. KRS 127.040 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two judges, one clerk, and one sheriff of election, who shall hold their offices for one year and until their successors are appointed. They shall serve in all elections held in the county during the year. The county executive committees of the two political parties having representation on the State Board of Elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than eight names for each precinct except that in any precinct where there are not as many as eight persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed that one of the judges at each voting place is of one political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten days before the next ensuing election, give each election officer written notice of his appointment. The Board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, and shall not be a candidate to be voted for at the election. An election officer may be removed, for cause, at any time up to five days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) Election officers shall be paid not less [than five dollars nor more] than fifteen dollars per day each for each election in which they serve, to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition eight cents for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

HB 49, AN ACT relating to the election of the boards of supervisors of conservation districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.090 is amended to read as follows:

The commission shall:

- (1) Supervise the organization and discontinuance of soil conservation districts.
- (2) Supervise the appointment [and election] of members of soil conservation district boards of supervisors.
- (3) Secure the cooperation and assistance of other agencies of the federal, state and local governments in the development of a complete soil conservation program.

- (4) Perform such acts and promulgate such regulations as may be necessary to carry out its functions.

Section 2. KRS 262.150 is amended to read as follows:

- (1) If the commission determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint *three* [two (2)] supervisors to act with the *four* [three (3)] supervisors elected as provided by KRS 262.220 and 262.240.

- (2) The *three* [two (2)] supervisors appointed under subsection (1) shall be persons who by training and experience are qualified to perform the services required of them by this chapter, and they shall serve until supervisors are elected at the next regular elections of supervisors as provided for under KRS 262.240.

Section 3. KRS 262.160 is amended to read as follows:

- (1) The *three* [two (2)] supervisors appointed under KRS 262.150 shall present to the secretary of state an application signed by them, which shall set forth the following:

- (a) Recitals that a petition for the creation of the district was filed with the commission pursuant to this chapter and that the proceedings were taken pursuant to the petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body under this chapter; and that the commission has appointed them as supervisors.

- (b) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office.

- (c) The term of office of each of the supervisors.

- (d) The name which is proposed for the district.

- (e) The location of the principal office of the supervisors of the district.

- (2) The application shall be subscribed and sworn to by each of the supervisors before an officer authorized to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed to the application in the officer's presence.

- (3) The application shall be accompanied by a statement by the committee, which shall certify by mere recitals, that:

- (a) A petition was filed, notice was issued and hearing was held.

- (b) The commission determined that there was need, in the interest of the public health, safety and welfare, for a district to function in the proposed territory and defined the boundaries of the territory.

- (c) Notice was given and a referendum held on the question of the creation of the district and the result of the referendum showed a majority of the votes cast in the referendum to be in favor of the creation of the district.

- (d) The commission determined that the operation of the proposed district was administratively practicable and feasible.

- (4) The statement shall set forth the boundaries of the district as they have been defined by the commission.

Section 4. KRS 262.210 is amended to read as follows:

No less than 55 days before the day fixed by law for holding of regular elections, nominating petitions may be filed with the clerk of the county in which the district lies to nominate candidates for supervisors of the district. Each nominating petition shall be subscribed by 25 or more qualified voters who are residents of the territory to be encompassed by the district. Resident qualified voters may join in nominating by petition more than one candidate for supervisor. The nominating petition shall state the residence and post office address of each candidate, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The county clerk shall certify the nomination and election of supervisors to the commission.

[Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a district, nominating petitions may be filed with the commission to nominate candidates for supervisors of the district. The commission may extend the time within which nominating petitions may be

filed. No such nominating petition shall be accepted by the commission, unless it is subscribed by twenty-five (25) or more owners of lands lying within the boundaries of the district. Landowners may sign more than one nominating petition to nominate more than one candidate for supervisor.]

Section 5. KRS 262.220 is amended to read as follows:

The county clerk shall cause the names of all nominees on behalf of whom nominating petitions have been filed under KRS 262.210 to be printed for the voting machines and on the special ballots for the regular elections as provided in KRS 125.060. In counties encompassing more than one soil and water conservation district, where portions of more than one district be within the boundaries of a single voting precinct, separate ballots shall be printed for the election of supervisors. The election of soil and water conservation district supervisors shall be subject to the provisions of KRS Chapter 119 for the conduct of regular elections, except that the cost of placing the names of the nominees on the voting machines and on the ballots shall be borne by the commission.

[Upon the organization of a district, the commission shall give due notice of an election of five supervisors to serve until supervisors are elected to the next regular election of supervisors as provided for under KRS 262.240. The names of all nominees on behalf of whom nominating petitions have been filed under KRS 262.210 shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an \$YVX mark in the square before any three names to indicate the voter's preference. Any qualified voter within the district shall be eligible to vote in the election. The five candidates who receive the largest number, respectively, of the votes cast in the election shall be the elected supervisors for the district. In the event nominating petitions for only five supervisors are filed, the commission shall declare the five nominees elected without holding an election as herein provided. The commission shall supervise the conduct of the elections provided for in this section, shall prescribe regulations governing the conduct of such elections and the determination of the eligibility of voters and shall publish the results of the elections. The expenses of the elections shall be paid out of funds available to carry out the functions of the commission.]

Section 6. KRS 262.240 is amended to read as follows:

(1) A supervisor's term begins on January 1 following his election. *The two supervisors elected in the general election of 1974 shall be elected for a term of two years. In 1976 a general election shall be conducted for seven supervisors.* The *four (4)* [three (3)] supervisors elected with the highest number of votes in the general election of 1976 [1960] shall serve for four (4) years; the other *three (3)* [two (2)] supervisors elected in 1976 [1960] shall serve for two (2) years. In the event only *seven (7)* [five (5)] nominating petitions for supervisors are filed, the commission shall declare the nominees elected without an election, and shall name *four (4)* [three (3)] of the nominees to serve terms of four (4) years, and *three (3)* [two (2)] to serve terms of two (2) years. [In 1962 two (2) supervisors shall be elected for four (4) years and] *T[t]hereafter* supervisors shall be elected for four (4) years as their terms expire. Nominating petitions for supervisors shall be filed with the *county clerk* [commission] not less than *fifty-five (55)* [forty-five (45)] days prior to the day of the election. No such nominating petition shall be accepted by the *clerk* [commission] unless it is signed by twenty-five (25) or more *qualified resident voters* [owners of land lying within the boundaries] of the district. *Qualified resident voters* [Landowners] may sign more than one nominating petition to nominate more than one candidate for supervisor. In the event nominating petitions for only the number of supervisors to be elected are filed, the commission shall declare the nominees elected without holding an election. [The election shall be conducted by the commission as provided for under KRS 262.220.]

(2) A supervisor shall hold office until his successor has been elected and has qualified. Vacancies shall be filled for the unexpired term by appointment by the commission.

(3) A supervisor may be reimbursed for expenses necessarily incurred in the discharge of his duties and may be paid a per diem for attending meetings or otherwise discharging the obligations of his office.

(4) A supervisor shall be a resident of the county or district in which he serves as a supervisor, and upon moving from the county or district, the supervisor shall be ineligible to serve as a supervisor and his office shall be vacant.

(5) Any supervisor may be removed by the commission upon notice and hearing for neglect of duty or malfeasance in office. A supervisor shall not be removed except pursuant to this subsection.

Section 7. KRS 119.310 is amended to read as follows:

(1) Except as provided in KRS 119.350, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the special ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 119.010, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 119.090, and whose certificates of nomination have been filed with the Secretary of State.

(b) Candidates of a political party, as defined in KRS 119.010, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 119.030, and whose evidences of nomination have been filed with the Secretary of State within the time prescribed in

this chapter.

(c) Candidates of a political party, as defined in KRS 119.010, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 119.020, and whose certificates of nomination have been filed with the Secretary of State, in sufficient time before the regular election to enable their names to be printed for the voting machines and on the special ballots at the time they are required to be printed.

(d) Candidates who have been nominated by a political organization as provided in KRS 119.330 and whose certificates or petitions of nomination have been filed with the Secretary of State within the time prescribed in this chapter.

(e) Candidates who have been nominated by petition as provided in KRS 119.320, and whose petitions of nomination have been filed with the Secretary of State within the time prescribed in this chapter.

(f) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 119.330, where the certificate of nomination of such electors has been filed with the Secretary of State within the time prescribed in this chapter.

(g) *Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210.*

(2) Candidates for members of boards of education shall have their names printed on ballot labels and special ballots for the regular election only after filing as provided in KRS 160.220.

(3) Except as provided in KRS 119.020 and 119.030, the name of no candidate shall be printed upon the ballot labels and special ballots for any regular election as the nominee of any political party, as defined in KRS 119.010, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(4) No county clerk shall knowingly cause to be printed, upon the ballot labels or special ballot for any regular election, the name of any candidate of a political party, as defined in KRS 119.010, who has not been nominated in the manner provided in the primary election laws.

Section 8. KRS 119.320 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain one thousand petitioners; for a representative in Congress from any Congressional district, or for any officer from any other district except as herein provided, four hundred petitioners; for a county officer or member of the General Assembly, one hundred petitioners; *for a soil and water conservation district supervisor, twenty-five (25) petitioners*; for an officer of a precinct or ward, or other division less than a county *except as herein provided*, twenty petitioners. The signatures of the petition need not be appended to one paper. No petitioner shall be counted unless his residence and post-office address are designated. If any person joins in nominating, by petition, more than one nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, *except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed*. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The petition shall designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.

(3) The state board of elections shall prescribe the forms for the petition.

HB 95, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 119.100 is amended to read as follows:

All nomination papers filed under KRS 119.080 shall at all times be subject to inspection by *any person* [candidates and by the county attorney, the commonwealth's attorney and the attorney general].

HR 29, A CONCURRENT RESOLUTION applying to the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States be, and it hereby is, requested to call a convention for the proposing of the following amendment to the Constitution of the United States:

"No student shall be assigned or compelled to attend any particular public school on account of race, religion, color or national origin."

Section 2. That this application by the General Assembly of the Commonwealth of Kentucky constitutes a continuing application, in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications.

Section 3. That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, each member of the Congress from this state and to each house of each state legislature in the United States.

The Committee on Labor reported **HB 50**, **HB 306**, **HB 316** and **SB 81** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to collective bargaining for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 336 is created to read as follows:

Definitions: as used in this Chapter:

(a) "Person" includes one or more individuals, employe organizations, public employes, public employers, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(b) "Public employer" means the Commonwealth of Kentucky or any political subdivision of the State, including, without limitation, any municipal corporation, county, school district, state institution of higher learning, any public or special district, or any state agency, authority, commission, department, publicly owned or operated utility, quasi-governmental corporation, or board or other branch of public employment;

(c) "Public employe" means any person holding a position by appointment or employment in the service of a public employer, except:

(1) Persons holding elective office;

(2) Employes of the General Assembly and employes of any other legislative body of the public employer whose principal duties are directly related to the performance of the legislative functions of such body;

(3) Employes on the staff of the Governor or the chief executive of the public employer whose principal duties are directly related to the performance of the Governor or the chief executive;

(d) "Board" means the Commonwealth of Kentucky Employment Relations Board created by Chapter 336;

(e) "Employe organization" means any bona fide employe organization in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, disputes, wages, rates of pay, hours of employment or conditions of employment;

(f) "Exclusive representative" means the employe organization which has been (1) certified for the purposes of this Chapter by the Commonwealth of Kentucky Employment Relations Board as the exclusive representative of the public employes in an appropriate unit, or (2) recognized by a public employer prior to the effective date of this act as the exclusive representative of the employes in an appropriate unit, or subsequently after notice to the employes and interested organizations as provided by rules of the Board, upon evidence that the employe organization has been designated as the exclusive representative by a majority of the employes in an appropriate unit;

(g) "Supervisor" means any individual having authority, in the interest of the public employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other public employes;

(h) "To bargain collectively" is the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budgetmaking process, and negotiate in good faith with respect to wages, hours, other conditions of employment including any other matters agreed to by the parties as a subject of bargaining and other matters of mutual concern, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession;

(i) "Professional employee" means any employee engaged in work which is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from an apprenticeship; or an employee who has completed the courses of such specialized intellectual instruction and is performing related work under supervision of a professional person to qualify himself to become a professional employee;

(j) "Wages" means hourly rates of pay, salaries or other forms of compensation for services rendered.

Section 2. A new section of KRS Chapter 336 is created to read as follows:

(a) Within the Department of Labor there is hereby created a board to be known as the Commonwealth of Kentucky Employment Relations Board which shall be composed of five members, appointed by the Governor on the basis of training, practical experience, education, and character. Initial appointments shall be made by the Governor within ninety (90) days of the effective date of this Act. A member of the Board during his period of service as such shall hold no other public office and he shall allow no other responsibilities to interfere or conflict with his duties as a full-time Board member. Two of the original members shall be appointed for terms of two years, one for a term of three years and two for terms of four years, but their successors shall be appointed for terms of four years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the term of the member whom he is to succeed. The Governor shall designate one member to serve as Chairman of the Board, and he shall receive an additional twenty-five hundred dollars a year for such services. Any member of the Board may be removed by the Governor, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members shall, at all times, constitute a quorum. Board vacancies shall be filled by the Governor within ninety (90) days.

(c) The Board shall make an annual report in writing to the Governor and the Commissioner of Labor, stating in detail the work it has done.

(d) Each member of the Board shall receive a salary equal to that of Circuit Judges and shall be eligible for reappointment. The Board shall appoint an executive director and such other persons as it may from time to time find necessary for the proper performance of its duties and may prescribe their duties, fix their compensation and provide for reimbursement of their expenses within the amounts made available therefor by appropriation. Attorneys appointed under this section may, at the direction of the Board, appear for and represent the Board in any case in court. The Board may establish or utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services as may from time to time be needed.

(e) All employees of the Board shall be appointed by the Board on the basis of training, practical experience, education, and character; provided, that special regard shall be given to the practical training and experience which employees have for the particular position involved.

(f) Examiners and other agents whose functions are to conduct hearings, shall be selected and assigned with due regard to their impartiality, judicial temperament, and knowledge. If in any proceeding under this Chapter, any party prior to five days before the hearing thereto shall file with the Board a sworn statement charging that the examiner or other agent designated to conduct the hearing is believed to be biased or partial in the proceeding, such examiner may be disqualified by the Board, and another examiner or agent may be designated to conduct such proceeding. At least ten days preceding any hearing, the Board shall notify all parties to a proceeding of the name of the examiner or agent designated to conduct such hearing.

(g) The principal office of the Board shall be in the city of Frankfort, but it may meet and exercise any or all of its powers at any other place within the state. The Board may, by one or more of its members of any such agents or agencies as it may designate conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions. A member who participates in any such proceeding shall not be disqualified from subsequently participating in a decision of the Board in the same case.

(h) In addition to the powers and functions provided in other sections of this Chapter, the Board shall have the following powers and functions:

(1) To mediate, conciliate, or cause mediation or conciliation;

(2) To make studies and analyses of, and act as a clearing house of information relating to conditions of employment of public employees throughout the Commonwealth of Kentucky, and to request assistance,

services, and data from any public employer or governmental unit, and such public employers or governmental units are authorized and directed to provide such assistance, services and data as will enable the Board to carry out its functions and powers;

(3) To make available to employe organizations, government or public employers, mediators, fact-finding panels and joint study committees statistical data relating to wages, benefits and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(4) To establish, after consulting representatives of employe organizations and public employers, panels of qualified persons to be available to serve as mediators, members of fact-finding panels and arbitrators;

(5) To provide training equally for representatives of employe organizations and public employers in the rules and techniques of collective bargaining procedures;

(6) To conduct studies of problems involved in representation and negotiation and to make recommendations from time to time for legislation;

(7) To hold hearings pursuant to this Chapter and for the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the Board or any attorney-trial examiner appointed by the Board for the performance of its functions;

(8) To make, amend, and rescind, from time to time, such rules, regulations and procedures and to exercise such other powers, as may be appropriate to carry out the provisions of this Chapter.

(i) In cases of neglect or refusal to obey a subpoena issued to any person the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board, and give testimony about the matter under investigation. A failure to obey such order may be punished by the court as contempt, and;

(j) Any subpoena, notice of hearing or other process or notice of the Board issued under the provision of this Section shall be served in accordance with the Kentucky Rules of Civil Procedure;

(k) All of the expenses of the Board, including all necessary traveling and subsistence expenses incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commissioner of Labor or by any individual he designates for that purpose and in accordance with established auditing and payment procedures.

Section 3. A new section of KRS Chapter 336 is created to read as follows:

Public employes shall have the right to :

(a) Self organization, to form, join, assist, or participate in, or to refrain from forming, joining, assisting, or participating, except as otherwise provided in this chapter, in any employe organization of their own choosing.

(b) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.

(c) Be represented by an employe organization, and

(d) Bargain collectively with their public employers to determine wages, hours and terms and conditions of employment and enter into collective bargaining agreements which shall provide, among other things, fair procedures to settle grievances which shall include final and binding arbitration.

Section 4. A new section of KRS Chapter 336 is created to read as follows:

(a) Public employers shall extend to an employe organization, certified pursuant to this Chapter, the right to represent exclusively the employes in the appropriate bargaining unit and the right to unchallenged and exclusive representation status.

(b) A public employer shall bargain collectively with an employe organization certified pursuant to the provisions of this Chapter.

Whenever a public employer is notified by the Board that an employe organization has been certified as exclusive representative for a unit of its employes, such public employer shall designate an employer representative, and shall promptly notify the Board and the employe organization of his identity and address. All communications concerned with collective relationships under this Chapter, from the employe organization or from the Board, shall be addressed to the employer representative. The designated employer representative is hereby empowered to sign agreements resulting from collective bargaining on behalf of the public employer, but such agreements shall be subject to the procedures set forth in this Act.

(c) This Chapter does not abridge the recognition of or agreement with any employe organization which is in effect at the effective date of this Act, provided the agreement is for a term not exceeding three years.

Section 5. A new section of KRS Chapter 336 is created to read as follows:

(a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employes in a unit appropriate for such purposes or by the majority of the employes voting in an election

conducted pursuant to Section 7 of this Chapter, shall be the exclusive representatives of all employees in the appropriate unit for the purposes of collective bargaining. Any individual employee shall have the right at any time to present grievances for adjustment without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect; provided that the bargaining representatives have been given opportunity to be present at such adjustment; such adjustment or determination shall not be a precedent in other grievances, whether similar or dissimilar.

(b) The Board, in accordance with the procedures established herein, shall decide in each case the unit appropriate for the purposes of collective bargaining.

Section 6. A new section of KRS Chapter 336 is created to read as follows:

(a) The Board, in determining whether a unit of employees is an appropriate unit, shall consider among other relevant factors, such factors as the effects of overfragmentization, community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees; provided, that a unit may be found to be the appropriate unit in a particular case, even though some other unit might also be appropriate, or might be more appropriate.

(b) In determining the appropriate bargaining unit, the Board shall also:

(1) Not decide that any unit is appropriate if such unit includes both professional and non-professional employees, unless a majority of such professional employees vote for inclusion in such unit.

(2) Not permit correction officers or guards at prisons or other institutions, or any individual employed as a guard to enforce against other employees rules to protect property of the employer or to protect the safety of persons on the employer's premises to be included in a unit with other public employees.

(3) Not permit supervisors as defined in this Chapter to be included in a unit with the employees they supervise.

Section 7. A new section of KRS Chapter 336 is created to read as follows:

(a) When a petition has been filed, in accordance with such regulation as is prescribed by the Board:

(1) By any employee or group of employees or any individual or employee organization acting in their behalf alleging that thirty percent of the employees in an appropriate unit (a) wish to be represented for collective bargaining by an exclusive representative or (b) assert that the designated exclusive representative is no longer the representative of the majority of employees in the unit;

(2) By the employer alleging that one or more employee organizations have presented to it a claim to be recognized as the exclusive representative of an appropriate unit. The Board shall investigate such petition, and if it has reasonable cause to believe that question of representation exists, it shall provide for an appropriate hearing upon due notice to the parties. Notice of the hearing shall be posted in conspicuous places about the premises of the employer and served upon the existing exclusive representative, if any, at least ten (10) days prior to the date of the hearing. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election and shall certify the results thereof. No one shall be permitted to vote by mail or proxy. The Board may also certify an employee organization as an exclusive representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices and that at one time the employee organization had the support of the majority of the employees in the unit.

(b) Only those employee organizations which have been designated by more than ten percent of the employees in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose: of a consent election, in conformity with the rules and regulations of the Board; of recognizing an employee organization as the exclusive employee organization when there is no dispute as to its majority status, in which event the Board shall, upon request by the employee organization, certify such employee organization as the exclusive employee organization of the employees in the unit.

(c) Representation elections shall be conducted by secret ballot at such times and places selected by the Board subject to the following:

(1) The Board shall give no less than ten days notice of the time and place of such election.

(2) The Board shall establish rules and regulations concerning the conduct of any election including but not limited to regulations which would guarantee the secrecy of the ballot.

(3) A representative may not be certified unless it receives a majority of the valid ballots cast.

(4) Except as provided herein, the Board shall include on the ballot a choice of "no representative."

(5) In an election where none of the choices on the ballot receives a majority, a run-off election shall be conducted within a maximum of thirty days, the ballot providing for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(6) (a) No election shall be conducted pursuant to this Section in any appropriate bargaining unit within which in the preceding twelve-month period a Board-conducted election shall have been held nor during the term of any lawful collective bargaining agreement between a public employer and an exclusive representative. This restriction shall not apply to that period of time covered by any collective bargaining agreement which exceeds three years. For the purposes of this Section, extensions of agreements shall not

affect the expiration date of the original agreement.

(b) Petitions for elections may be filed with the Board not sooner than one hundred twenty (120) days nor later than ninety (90) days before the expiration date of any collective bargaining agreement or after six months after the expiration date until such time as a new written agreement has been executed. For the purposes of this section mere extensions of the expiration dates of agreements shall not affect the expiration date of the original agreement.

Section 8. A new section of KRS Chapter 336 is created to read as follows:

(a) All matters pertaining to wages, salaries, employee benefits, and other terms and conditions of employment shall be subject to collective bargaining between the public employer and the exclusive representative.

(b) Nothing in this section shall interfere with the right of the public employer: (1) to direct and supervise employees; (2) to discipline employees for just cause; (3) subject to contract seniority and/or tenure rights, to determine the adequacy of the work force and to lay off employees for lack of work or funds; (4) to maintain the efficiency of governmental operations. Nothing in this paragraph shall be construed as preventing an employee from raising a legitimate complaint or filing a grievance based on the effects of such management decisions.

Section 9. A new section of KRS Chapter 336 is created to read as follows:

(a) Any collective bargaining agreement reached by the employer and the exclusive representative shall be immediately reduced to writing and executed by both parties.

(b) Said agreement, which shall contain a grievance procedure culminating with final and binding arbitration of unresolved grievances and disputed interpretations of agreements, shall be valid and enforced under its terms when entered into in accordance with the provisions of this act. No publication thereof shall be required to make it effective. Suits for violation of agreements or the enforcement of an award by an arbitrator may be brought by the parties to such agreement in the circuit court for any county wherein a party resides or transacts business, or the Franklin Circuit Court.

(c) Said agreement shall contain a provision which requires the public employer to deduct the periodic dues, initiation fees and assessments or service fees uniformly required of members or employees represented by the exclusive representative upon presentation of a written deduction authorization; provided such authorization may be revocable by written notice to the public employer and the employee organization upon the will of the employee, at any anniversary date of the authorization. The deduction shall be made periodically as directed by the employee organization and remitted by the employer to the employee organization within thirty (30) days of the deduction.

(d) Until such time as a public employee organization has been certified as the exclusive representative, each public employer shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees, periodic dues or initiation fees and assessments of employee organizations(s) upon written authorization by the member or group of employees provided such authorization may be revocable by written notice to the public employer and the employee organization upon the will of the member.

Section 10. A new section of KRS Chapter 336 is created to read as follows:

In the event of a conflict between an agreement between an employee organization and a public employer and the provisions of any law or ordinance pertaining to wages, hours, terms and conditions of employment, the provisions of the agreement shall prevail, provided that laws pertaining to workmen's compensation and the retirement of public employees shall prevail over conflicting provisions of agreements between employee organizations and public employers. The provisions of this Chapter shall prevail over any other conflicting statute or ordinance and further provided that nothing herein prohibits agreements establishing supplemental workmen's compensation and supplemental pension benefits.

Section 11. A new section of KRS Chapter 336 is created to read as follows:

(a) It shall be an unfair labor practice for a public employer to:

(1) Interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in this Chapter;

(2) Initiate, create, dominate, interfere with the formation or administration of any employee organization, or contribute financial or other support to it; provided, that a public employer shall not be prohibited from permitting employees to confer with it during working hours without loss of time or pay;

(3) Discriminate in regard to hire or tenure of employment, or any term or condition of employment on the basis of the exercise of rights guaranteed by this Chapter; provided that nothing in this Chapter or any other Statute of this State shall preclude any employer from making and enforcing an agreement requiring as a condition of employment membership in an employee organization on or after the 30th day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(4) Discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Chapter;

(5) Refuse to bargain collectively with the representative of his employees certified pursuant to this Chapter and/or fail to submit to any required legislative body of the public employer for approval any provision of the agreement requiring legislative approval within fourteen (14) days after agreement is

reached.

(b) It shall be an unfair labor practice for an employe organization, its agents, or representatives, or public employes to:

(1) Restrain or coerce (a) Employes in the exercise of the rights guaranteed in this Chapter; provided, that this paragraph shall not impair the right of an employe organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (b) An employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(2) Cause or attempt to cause an employer to violate Section 11(a) of this Chapter;

(3) Refuse to bargain collectively with a public employer, provided the employe organization has been certified as the exclusive representative of public employes in a bargaining unit;

(4) Fail to fairly represent all public employes in a bargaining unit.

(c) The determination by the Board or any court that a public official or employe has committed any unfair labor practice prohibited by this Section shall not in and of itself form the basis of any charge for the removal from office or recall of such public official or employe, but such determination may be introduced as evidence in support of such charge.

Section 12. A new section of KRS Chapter 336 is created to read as follows:

(a) Violation of Section 11 of this Chapter shall be deemed to be an unfair labor practice remediable by the Board as provided in this section.

(b) If a charge is filed alleging that any person has engaged in or is engaging in any unfair labor practice, as defined in Section 11 of this Chapter, and it appears to the agent designated by the Board for such purposes that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon the charged party a formal complaint and a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than ten days after the service of said complaint:

(1) Any such complaint may be amended by the Board at any time prior to the issuance of an order based thereon; provided, that the charged party is not unfairly prejudiced thereby. The person so complained of shall be allowed to file an answer to the original or amended complaint. The Board, the person making the charge, and the person charged shall be parties and shall have the right to appear or otherwise give testimony and subpoena witnesses at the place and time fixed in the notice of hearing. Any other interested person may be allowed to intervene in the said proceedings and to present testimony.

(2) The testimony taken by such member, agent, or agency of the Board shall be reduced to writing and filed with the Board, thereafter in its discretion the Board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring that he cease and desist from these unfair labor practices, and take such affirmative action, including reinstatement of employes with or without back pay, as will effectuate the policies of this Chapter, provided, that where an order directs reinstatement of an employe, back pay may be required of the public employer or employe organizations, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which he has complied with the order.

(3) If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then it shall state its findings of fact and shall issue an order dismissing the said complaint. No notice of hearing shall be issued based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event the six months period shall be computed from the day of his discharge. No order of the Board shall require the reinstatement of any individual as an employe or the payment to him of any back pay, if such individual was suspended or discharged for just cause. In case the evidence is presented before a member of the Board, or before an examiner or examiners thereof, such member, or such examiner or examiners, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within twenty days after service thereof, such recommended order shall become the order of the Board and become effective as therein prescribed.

(4) If exceptions are filed to the proposed report, the Board shall determine whether such exceptions raise substantial issues of fact or law, and shall grant review if it believes such substantial issue have been raised. If the Board determines that the exceptions do not raise substantial issues of fact or law, it may refuse to grant review, and the recommended order shall become effective as therein prescribed.

(c) Whenever a complaint alleges that a person has engaged in an unfair labor practice and that it will suffer substantial and irreparable injury if it is not granted temporary relief, the Board may petition the Franklin Circuit Court for appropriate injunctive relief, pending the final adjudication by the Board with

respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof together with the time and place of hearing to be served upon the parties, and thereupon shall have jurisdiction to immediately conduct a hearing and grant such temporary relief or restraining order as it considers just and proper.

(d) Until the record in a case has been filed in a court, as hereinafter provided, the Board may at any time upon reasonable notice and in such manner as it considers proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

Section 13. A new section of KRS Chapter 336 is created to read as follows:

(a) The Board or the complaining party shall have the power to petition the Franklin Circuit Court for the enforcement of such order and for appropriate temporary relief or restraining order, and the Board shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which said order was entered and the findings and order of the Board. When the Board petitions the court, the complaining party shall be permitted to intervene in the case as a matter of right. Upon such filing, the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to immediately make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board.

(b) The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken immediately before the Board, its member, agent, or agency, and to be made a part of the transcript. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by such evidence, shall be conclusive and shall file its recommendations if any, for the modification or setting aside of its original order.

(c) The jurisdiction of the Franklin Circuit Court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review on questions of law as in civil cases.

(d) Any person aggrieved by any final order of the Board granting or denying, in whole or in part, the relief sought may obtain a review of such order in the Franklin Circuit Court by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the Board shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered and the order of the Board. Upon such filing, the court shall have exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and to immediately make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Board, and the findings of the Board as to the facts shall be conclusive.

(e) The commencement of proceedings under division (a) or (d) of the Section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

(f) Petitions filed under this Chapter shall be heard expeditiously by the circuit court to which presented and shall take precedent over all other civil matters except earlier matters of the same character.

Section 14. A new section of KRS Chapter 336 is created to read as follows:

The following procedures shall be followed in the resolution of disputes or negotiations between an employe organization and a public employer;

(a) Where a settlement procedure is provided in a collective bargaining agreement, such procedure shall prevail, or if such procedure does not terminate in voluntary, final and binding arbitration or does not otherwise result in a settlement, then the following procedure shall prevail:

(1) In the event that the parties are unable to reach agreement, any party may serve notice upon the Board and the other parties to the dispute setting forth the names and addresses of the parties, the issues involved and the expiration date of the agreement if an agreement exists. Where an agreement exists the notice may be served not later than sixty days before the expiration date, and the Board shall be served with a copy of the agreement.

(2) The Board shall intervene and investigate such dispute to determine whether the parties have engaged in collective bargaining;

(3) If an impasse exists, the Board shall appoint a mediator to assist the parties;

(4) If the mediator advises the Board that the parties are unable to reach an agreement, or upon the expiration date of the agreement, if one exists, whichever occurs sooner, the Board may in its discretion appoint a fact-finding panel of not more than three members who have been selected by the parties in accordance with rules established by the Board, from a list of qualified persons maintained by the Board. The fact-finding panel shall in accordance with rules and procedures established by the Board which shall include

the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter;

(5) The fact-finding panel acting by a majority of its members shall transmit its findings of fact and recommendations to the public employer and employee organization involved and to the Board. Such findings of fact and recommendations shall be transmitted no later than thirty days after the appointment of the fact-finding panel. The State shall pay one-half the cost of the fact-finding panel; the remaining one-half of the cost shall be divided equally between the parties.

(6) Not more than ten days after the findings and recommendations shall have been sent, the parties shall notify the Board and each other whether or not they accept the recommendations of the fact-finding panel and if they do not, the panel shall publicize its findings of fact and recommendations.

(7) If the parties are unable to reach agreement within ten days after the publication of the findings and recommendations from the fact-finding panel or if, where fact-finding has not been requested or ordered, mediation has failed to bring the parties into agreement or the collective bargaining agreement, if one exists, has expired, or thirty days have elapsed since the Board was notified that the parties cannot reach an agreement, then the public employees shall submit the matter to final and binding arbitration by an arbitrator selected by the parties. If the parties cannot agree upon an arbitrator within five days, the Board shall immediately appoint an arbitrator from a list of qualified persons maintained by the Board.

(b) Nothing in this Section shall be construed to prohibit the parties from voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration. If such agreement is reached said arbitration shall supersede the settlement procedures set forth in this Section. An agreement to arbitrate and the award issued in accordance with such agreement shall be enforceable in the same manner as is provided in Section 9 (b).

(c) Nothing in this Section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or an arbitrator's award as provided in Section 9(b).

(d) Allegations of unfair labor practices during the settlement procedures set forth in Section 14 shall receive priority by the Board.

Section 15. A new section of KRS Chapter 336 is created to read as follows:

Formal charges, petitions, complaints, orders, testimony, fact-finding recommendations, and other proceedings instituted by the Board under this Chapter shall be public records and available for inspection or copying subject to rules and regulations to be made by the Board. All hearings on complaints, or petitions pursuant to this Chapter shall be open to the public.

Section 16. A new section of KRS Chapter 336 is created to read as follows:

This chapter shall preempt without abrogating any existing collective bargaining rights of public employees all contrary local ordinances, executive order or legislation; provided, that any political subdivision may enact, through its appropriate legislative body, procedures which will effectuate within its jurisdiction all of the mechanisms, purposes, and intent provided herein. Nothing in this Act shall be construed as precluding subordinate governmental units from further extension of their rights. Such procedures shall be discussed before enactment with interested employee organizations involved, and the procedures shall be approved by the Board as complying with this Act before being put into effect. Charges of departure from approved procedures may be brought before the Board for remedy.

Section 17. A new section of KRS Chapter 336 is created to read as follows:

There is hereby created a council to be known as the Kentucky Public Employment Citizens Advisory Council, the members of which shall be appointed by the Governor to review developments regarding public sector employee relations matters and to make recommendations for continuing improvements in this area. Members shall serve without compensation and shall include public employer and employee organization representatives as well as others who are knowledgeable in public sector employee relations matters.

Section 18. A new section of KRS Chapter 336 is created to read as follows:

Collective bargaining meetings between public employers and employee organizations shall be considered private.

Section 19. A new section of KRS Chapter 336 is created to read as follows:

If any provisions of this Chapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of the Chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 20. A new section of KRS Chapter 336 is created to read as follows:

All provisions of this Act shall take effect September 1, 1974, except Sections 2 and 17 of this Act which shall take effect as provided in Section 55 of the Kentucky Constitution.

Section 21. A new section of KRS Chapter 336 is created to read as follows:

There is appropriated from the General Expenditure fund to the Department of Labor \$245,000 in fiscal year 1974-1975 and \$275,000 in fiscal year 1975-1976 to be used to create, staff, and maintain said Commonwealth of Kentucky Employment Relations Board pursuant to KRS Chapter 336.

HB 306, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.380 is amended to read as follows:

(1) No policy of insurance or rider to be used therewith shall be issued or delivered until a copy of its form has been filed with the commissioner of the department of insurance at least thirty (30) days before such issue or delivery, unless before the expiration of thirty (30) days the commissioner has approved the form thereof in writing; nor if the commissioner notifies the company in writing that in his opinion the form of the policy or rider does not comply with the laws of this state, specifying fully the reasons for his opinion. Upon petition of the company the decision of the commissioner shall be subject to review by the Franklin Circuit Court and to appeal therefrom to the Court of Appeals.

(2) *No policy shall be issued or delivered, or approved by the commissioner, unless it provides that advance premium deposits shall draw interest at the rate of six percent per annum, said interest to be credited to the policyholder at the end of the policy period.*

HB 316, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.420 is amended to read as follows:

(1) The commissioner shall appoint one or more impartial referees according to KRS 341.125 to hear and decide appealed claims.

(2) A party to a determination may file an appeal to a referee as to any matter therein within *thirty* [ten days] after the date such determination was mailed to his last known address.

(3) If benefits are allowed by a determination of the commissioner, or a decision of a referee, the commission or a reviewing-court, such benefits shall be paid promptly without regard to the pendency of an appeal or period for filing an appeal therefrom. If a determination or decision allowing benefits is modified or reversed by a subsequent determination or decision, benefits shall be paid or denied for weeks of unemployment thereafter in accordance with such modification or denial. No injunction, supersedeas, stay or other writ or process suspending payment of such benefits shall be issued.

(4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the determination. The parties shall be duly notified of his decision, together with the reasons therefor, which shall be deemed to be the final decision unless within *thirty* [ten days] after the date of mailing of such decision, further appeal is initiated under KRS 341.430.

SB 81, AN ACT to define "workweek" for the purposes of time and half-pay.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.050 is amended to read as follows:

(1) Any employer who permits any employe to work seven (7) days in any one (1) workweek shall pay him at the rate of time and a half for the time worked on the seventh day. *For the purposes of this subsection the term "workweek" shall mean a calendar week or any other period of seven consecutive days adopted by the employer as the workweek with the intention that the same shall be permanent and without the intention to evade the overtime provision set out herein.* [This subsection shall apply and not be abridged by any employment by the day, week, month or year.]

(2) (a) Subsection (1) shall not apply in any case in which the employe is not permitted to work more than forty (40) hours during the workweek. In that case the employer may credit against the overtime payable under this section any overtime paid by him to the employes for the same hours under the requirements of any other law or contract.

(b) Subsection (1) shall not apply to telephone exchanges having less than five hundred (500) subscribers, nor to stenographers, bookkeepers or technical assistants of professions such as doctors,

accountants, lawyers and other professions licensed under the laws of this state, nor to any employes subject to the federal railway labor act and seamen or persons engaged in operating boats or other water transportation facilities upon navigable streams, nor to persons engaged in icing railroad cars, nor to common carriers under the supervision of the department of motor transportation.

(3) "Employee" as used in subsection (1) does not include any officer, superintendent, foreman or supervisor whose duties are principally limited to directing or supervising other employes.

Senate Message

Announcing passage of **SB 51, SB 105, and HB 52.**

Motions, Petitions and Communications

Representative Hopkins moved that the rules be suspended for action on a Resolution. Agreed.

Representative Hopkins moved the adoption of the following **HR 34:**

HR 34, A RESOLUTION honoring Mrs. Alice R. McVetty, 1972 Kentucky teacher of the year.

WHEREAS, in 1972 Mrs. Alice R. McVetty of Jessie M. Clark Junior High School in Lexington was named Kentucky's teacher of the year by the Council of State Schools Officers, Look Magazine, and the Encyclopedia Britannica; and

WHEREAS, Mrs. McVetty has been so honored because of her ability to reach students by making instruction meaningful, relevant and interesting; and

WHEREAS, her work in developing new curriculums, workbooks, study aids and a program of career education for schools in Fayette County has made an outstanding contribution to public education; and

WHEREAS, her long involvement in community activities, and organizations has been an example for her profession; and

WHEREAS, the concern and dedication of the teachers of the Commonwealth is the greatest asset for the improvement of Kentucky's school system;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House of Representatives does hereby join the many others in saluting Mrs. Alice R. McVetty as 1972 Kentucky Teacher of the Year.

Agreed.

Representative Head moved the reading of Legislative Citations. Agreed.

Representative Head moved the adoption of the following Legislative Citation No. 32:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Princeton for its selection as an All Kentucky City for 1973. This body commends the Chamber of Commerce and the citizens of Princeton for this accomplishment. (Sponsored by Representative Head)

Agreed.

Representative Head moved the adoption of the following Legislative Citation No. 33:

The House of Representatives of the Commonwealth of Kentucky hereby honors the City of Providence for its selection as an All Kentucky City of 1973. This body commends the Chamber of Commerce and the citizens of Providence for having achieved this award. (Sponsored by Representative Head)

Agreed.

Representative King requested that he be recorded as voting "yea" on **HB 108, HB 117, HR 28.**

Representative Lewis moved that **HB 213** be recommitted to the Committee on Counties and Special Districts. Agreed.

The following Representatives requested that their names be added as co-sponsors of bills:

Representative Hughes, **HB 477**; Representative Crupper, **HB 7**; Representative O'Brien, **HB 97**; Representative Hopkins, **HB 327**; Representative Stephens, **HB 249**; Representative Beshear, **HB 249**; Representative Benson, **HB 249**; and Representative Little, **HB 249.**

Representative Schmaedecke moved that **HB 227** be recommitted to the Committee on Judiciary. Agreed.

Representative Burch requested that he be recorded as voting "yea" on **HB 108, HB 117, and HR 28.**

Representative Hancock moved that the rules be suspended for introduction of and action on a Resolution. Agreed.

Representative Hancock moved the adoption of the following **HR 43**:

HR 43: A RESOLUTION honoring the Boy Scouts of America.

WHEREAS, the Boy Scout movement was begun in England by Sir Robert Baden-Powell; and

WHEREAS, while visiting England, Chicago publisher William D. Boyce met Sir Robert and was inspired by the success of the movement in that country; and

WHEREAS, upon his return to the United States Mr. Boyce led the effort which culminated in the incorporation of the Boy Scouts of America on February 8, 1910; and

WHEREAS, the national Boy Scout program has materially contributed to the development of the qualities of self-sufficiency and leadership in American youth; and

WHEREAS, the national success of the Boy Scouts of America has been recognized by the President of the United States who receives from outstanding Scouts representing the Scout Regions in this country an annual report of the activities and the service of millions of Boy Scouts during that year; and

WHEREAS, the first Boy Scout troop in the United States was established in Kentucky, receiving its charter directly from Sir Robert Baden-Powell in England; and

WHEREAS, the Boy Scout program in Kentucky stands as a fine example of the contributions which concerned volunteer adults make in the development of high ideals in young men; and

WHEREAS, Kentucky has several times been honored by having her sons selected as participants in the annual report to the President; and

WHEREAS, the Kentucky Scout program has provided leaders of the Commonwealth in every phase of her activities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the week of February 3-9, 1974 is declared to be Boy Scout Week in the Commonwealth, in honor and in observance of the 64th anniversary of the founding of the Boy Scouts of America.

Section 2. That the clerk of the House of Representatives is directed to send attested copies of this resolution to: Mr. Willis R. Snyder, Scout Executive, Audubon Area Council, B.S.A., Box 280, 330 Allen Street, Owensboro, Kentucky 42302; Mr. William J. McLaughlin, Scout Executive, Blue Grass Council, B.S.A., 975 Liberty Road, Lexington, Kentucky 40505; Mr. Parvin Lee Bishop, Scout Executive, Four Rivers Council, B.S.A., 1501 Broadway, Paducah, Kentucky 42001; Mr. John W. Fanning, Scout Executive, Lonesome Pine Council, B.S.A., Main Street, Pikeville, Kentucky 41501; and Mr. Halsey D. Cory, Jr., Scout Executive, Old Kentucky Home Council, B.S.A., Box 20168 Standiford Station, Louisville, Kentucky 40221.

Agreed.

Representative DeMarcus filed Floor Amendment No. 1 to **HB 98**:

Representative Mason filed Floor Amendment No. 2 to **HB 98**.

Orders of the Day

Representative Swinford moved that **HB 7**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative McBee moved the adoption of the Committee Substitute to **HB 7**. Agreed.

Representative McBee moved that **HB 7**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 96-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 1-Hughes.

HB 7, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 7**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 58** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kleier moved that **HB 58** be placed upon its passage.

On the roll call the vote was yeas 80-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Hellard, Hinkle, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 9-Allen, Brewer, DeMarcus, Guenther, Hardin, Hislope, Mason, Pearman, Richardson.

HB 58 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 58** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 67** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 72** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blandford moved that **HB 72** be placed upon its passage.

On the roll call the vote was yeas 76-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds,

Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 16-DeMarcus, Denham, Freeman, Gay, Guenther, Hislope, Holloway, Hopkins, Hughes, Mason, O'Brien, Robinson, Schmidt, Stephens, Troop, Whitfield.

HB 72 was passed and the title agreed to.

Representative King requested that he be recorded as a co-sponsor of **HB 72**.

Representative Isler moved that the vote by which **HB 72** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 52** has been examined and found correctly enrolled. **HB 52** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 52 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

Representative Swinford moved that **HB 249** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved that **HB 249** be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Van Horn, Vincent, Watkins, Whitfield, Wible, Yates. Nays 12-Allen, R. Brown, Bruce, Dawahare, Freeman, Hislope, Roberts, Sharpe, Stewart, Troop, Turner, J. White.

HB 249 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 249** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **SB 15** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Yates moved that **SB 15** be placed upon its passage.

On the roll call the vote was yeas 96-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Roberts.

SB 15 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 15** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representatives Holbrook and R. Brown requested that their names be added as co-sponsors of **HB 72**.

The Speaker announced that without objection **HB 2** will be taken from the Committee on Cities and committed to the Committee on Business Organizations and Professions; **HB 411** will be taken from the committee on State Government and committed to the Committee on Appropriations and Revenue; **HB 423** will be taken from the Committee on Health and Welfare and committed to the Committee on Appropriations and Revenue; **HB 444** will be taken from the Committee on Labor and Industry and committed to the Committee on Business Organizations and Professions; and, **HB 355** will be taken from the Committee on Judiciary and committed to the Committee on Appropriations and Revenue.

Representative Kleier announced a meeting of the Jefferson County delegation for Wednesday, February 6, 1974, at 1:30 P.M., Room 305.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 480, by Representatives Donnermeyer and McBee: AN ACT relating to electronic service technicians.

HB 481, by Representatives Stephens and Hellard: AN ACT relating to dogs.

HB 482, by Representative Hancock: AN ACT relating to public employees' retirement systems.

HB 483, by Representatives Kenton, Benson, Guenther, Hopkins, Hughes, Priddy, Quickert, Reynolds, Romines and Van Horn: AN ACT relating to shorthand reporters.

HB 484, by Representatives Kafoglis and Hellard: AN ACT relating to teachers' retirement.

HB 485, by Representatives McBee, Donnermeyer, Schmidt, Kenton, Blythe, Crupper, DeMarcus, Denham, Dietz, Isler, Mann, Schmaedecke and Thomas: AN ACT relating to tourist and convention commissions.

HB 486, by Representative Stephens: AN ACT relating to the disclosure of information by lending institutions.

HB 487, by Representative Quickert, Benson, Blume, Blythe, Chandler, Karem, Kidd, Kleier, Maynard, McGill, Nett, and Siemens: AN ACT relating to first class cities.

HJR 42, by Representative Karem: A JOINT RESOLUTION designating Lillie Chaffin as an Associate Poet Laureate.

HJR 44, by Representatives Blume and Bennett: A JOINT RESOLUTION requesting the University of Kentucky and the University of Louisville to schedule football and basketball games with each other annually.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Wednesday, February 6, 1974.

On the roll call the vote was yeas 82-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hinkle, Holbrook, Holloway, Hughes, Hurst, Imes, Kafoglis, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 5-Clarke, Karem, Kenton, Stone, Vincent.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 6, 1974

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Charles King, Corinthian Baptist Church, Frankfort.

The roll was called. All present except Representative Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Smith filed an excuse.

Representative Hughes moved that the reading of the Journal of February 6, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 479, by Representative Whitfield: AN ACT relating to taxation.

HB 488, by Representatives Troop and Bruce: AN ACT relating to state legislative districts.

HB 489, by Representative Swinford: AN ACT relating to revenue and taxation.

HB 490, by Representative Swinford: AN ACT relating to revenue and taxation.

HB 491, by Representative Reynolds: AN ACT relating to state personnel.

HB 492, by Representative VanHorn: AN ACT relating to the inclusion of chiropractic services in medical treatment services paid by employers.

HB 493, by Representative Swinford: AN ACT relating to revenue and taxation.

HB 494, by Representatives Bennett, Kenton, Hughes, O'Brien, Benson, Blume, Blythe, Burch, Chandler, Dunn, Holloway, Karem, Kleier, Maynard, Nett, Paxton, Priddy, Quickert, Romines, and Siemens: AN ACT relating to liens on unfit structures, repaired, closed, or demolished by cities.

HB 495, by Representative DeMarcus: AN ACT relating to elections.

HB 496, by Representative May: AN ACT relating to recycling yards.

HB 497, by Representative Swinford: AN ACT relating to revenue and taxation.

HB 498, by Representative Brewer: AN ACT relating to hunting and sport fishing license.

HB 499, by Representative Imes: AN ACT proposing to amend the Constitution of Kentucky relating to the General Assembly.

HB 500, by Representative Hinkle: AN ACT relating to teachers' retirement.

HB 501, by Representative J. White: AN ACT relating to cities of the fourth and fifth classes.

HCR 45, by Representative Swinford: A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 475, HB 478.**

Appropriations and Revenue: **HB 468, HB 471, HB 472.**

Banking and Insurance: **HB 467, HB 486.**

Business Organizations and Professions: **HB 476, HB 480, HB 483.**

Cities: **HB 487.**

Counties and Special Districts: **HB 481, HB 485.**

Education: **HB 474, HB 484.**

Health and Welfare: **HB 469.**

Highways and Traffic Safety: **HR 41.**

Judiciary: **SB 51.**

Labor and Industry: **HB 473.**

State Government: **HB 470, HB 477, HB 482, HR 42, HR 44, SB 56, SB 69.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 467.**

Business Organizations and Professions: **HB 207, HB 372.**

Highways and Traffic Safety: **HR 36, HB 407, HB 458, HB 422, HB 421, HB 401, HB 391, HB 390, HB 375, HB 349.**

Report of Committees

The Committee on Rules reported **HB 41**, with Committee Amendment attached thereto, has been posted for passage in Orders of the Day, February 7, 1974.

The Committee on Rules reported **HB 35** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Counties and Special Districts reported **HB 384**, with Committee Amendment attached thereto, and **HB 388** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 384, AN ACT relating to planning units.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 100 is created to read as follows:

The fiscal court of the county may submit the question of establishing any planning unit authorized by KRS 100.113 to the qualified voters of the unincorporated area within the county at the next regular election. The legislative body of the city may submit such question to the qualified voters of the city at the next regular election. The question of the establishment of an independent planning unit shall not be submitted to the voters until KRS 100.117 has been complied with. If a majority of the votes cast in the county or city upon the question is in the affirmative, the fiscal court of the county or the legislative body of the city may vote whether or not to approve the establishment of such planning unit. If the majority of the votes cast is in the negative, no planning unit may be established in the political subdivision in which a majority of negative votes were cast, for a period of three years from the date on which the vote was taken.

The Committee Amendment to **HB 384** is as follows:

Amend printed copy of House Bill 384 on page 1, line 19, by changing "three" to "two"

HB 388, AN ACT relating to counties containing a population of 75,000 or more.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The circuit clerk, county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of \$12,600.

(2) The amount, if any, allowed for the necessary office expenses of each officer shall be fixed by *the fiscal court* by an order entered upon the *fiscal court* order book *no later than January 15 of each year* [of the circuit court and county court, and signed by the judges or a majority thereof of the courts]. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each officer shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses, shall be paid monthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the

department of finance by the officer during his official term.

(5) The number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by *the fiscal court* by an order entered upon the *fiscal court* order book *no later than January 15 of each year* [of the circuit court and county court and signed by the judges or a majority thereof of those courts]. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

The Committee on Health and Welfare reported **SR 9** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SR 9, A JOINT RESOLUTION directing the United States Congress to recognize the rights of the unborn.

WHEREAS, the sweeping judgment of the United States Supreme Court in the Texas and Georgia abortion cases expressly deprived the unborn of legal and constitutional protection during their gestation; and

WHEREAS, such judicial holding condones the destruction of an entire class of live human beings; and

WHEREAS, in states in which abortion laws have recently been relaxed or repealed, respect for unborn human life has proved to be wholly inadequate for the reasonable protection of the lives of the unborn; and

WHEREAS, a legal threat to the right of life of any individual member of a society imperils the right to life of every other member of that society; and

WHEREAS, human life in all states is entitled to the protection of the laws and may not be abridged by act of any court or legislature or by any judicial interpretation of the Constitution of the United States; and

WHEREAS, the issue is of such great magnitude--the extent to which human life itself is protected under the Constitution; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky believes it to be in the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to protect unborn human lives, and

WHEREAS, today, January 22nd, marks the 1st Anniversary of this sad era in U. S. History, ushered in by these modern Dred Scott decisions of the U. S. Supreme Court on January 22, 1973;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Congress of the United States take appropriate action to adopt a Constitutional Amendment that will guarantee the explicit protection of all unborn human life by extending the same constitutional rights, including due process of law, which apply to the unborn in the same manner and to the same extent as all other citizens of the United States, and will guarantee that no human life will be denied protection of law or deprived of life on account of age, sickness, state of development or condition of dependency or wantedness. Nothing contained herein shall prohibit an abortion to save the physical life of a pregnant woman.

Section 2. That the Clerk of the Senate transmit a copy of this Resolution to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Kentucky Congressional delegation, each member of the United States Supreme Court and the Governor of the Commonwealth of Kentucky.

The Committee on Public Utilities and Transportation reported **HB 331** and **HB 365** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 331, AN ACT relating to bicycles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:

The Department of Transportation may promulgate bicycle safety regulations and standards. Bicycle riders and bicycles complying with such regulations and standards are exempt from the provisions of KRS

189.040(9), 189.050(1), 189.050(5), and 189.080. Such bicycles and riders are also exempt from municipal and other local government regulations concerning safety equipment but not method of operation. In promulgating regulations and standards the Department of Transportation shall permit use of lightweight modern technological substitutes for lights, reflectors, and bells. The purpose of this section is to encourage bicycling and bicycle touring in this state by enabling bicycle riders to make use of modern technology to make their presence known to other users of the road. The Department of Transportation may consult with organizations of bicycle riders to aid it in the search for bicycle safety equipment and rules convenient for long distance bicycle riders.

Section 2. KRS 189.040 is amended to read as follows:

(1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this section.

(2) Every motorcycle and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this section.

(3) Except as hereinafter provided, the head lamps or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor driven cycle shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading;

(b) There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(c) Every new motor vehicle, other than a motorcycle or motordriven cycle, registered in this state after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.

(5) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.

(6) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under subsection (5) of KRS 189.340, subsection (1) of KRS 189.370, KRS 189.375, and subsection (3) of KRS 189.560 other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

(7) Headlights arranged to provide a single distribution of light not supplemented by auxiliary driving lights shall be permitted on motor vehicles manufactured and sold prior to May 30, 1939, in lieu of multiple-beam road-lighting equipment, if the single distribution of light complies with the following requirements and limitations:

(a) The headlights shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty-five feet (25') ahead, project higher than a level of five (5) inches below the level of the center of the light from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands, at a distance of seventy-five (75) feet ahead;

(b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet;

(c) Whenever the operator of a motor vehicle approaches an oncoming vehicle within 500 feet, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. In no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.

(8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(9) *Except as provided in any regulations adopted pursuant to Section 1 of this Act*, bicycles need have only one light in front which will reveal clearly substantial objects at least fifty feet ahead.

Section 3. KRS 189.050 is amended to read as follows:

(1) *Except as provided in any regulations adopted pursuant to Section 1 of this Act*, all vehicles shall display at the rear one red light visible when lighted for at least five hundred feet (500'). A red reflector meeting the requirements may be used in lieu of a red light.

(2) Every motor bus used for the transportation of persons for hire shall be equipped with at least one (1) red light with the word "STOP" on it which can be seen for one hundred and fifty (150) feet when illuminated. This subsection shall not apply to school buses or church buses.

(3) No person shall operate any motor truck or semitrailer truck on any highway unless it is equipped with a yellow or red light that automatically indicates the application of brakes and is visible from the rear a distance of not less than two hundred (200) feet.

(4) No person shall operate on any highway a motor truck or semitrailer truck having a width of any part in excess of eighty-four (84) inches, unless it carries at least two (2) clearance lights to indicate the outside left limit of the motor truck or semitrailer truck, one (1) light colored white or green, to be attached to and be visible from the front of the motor truck or semitrailer truck, and one (1) light colored red, to be attached to and be visible from the rear, in each case a distance of not less than five hundred (500) feet.

(5) When in operation on any highway slow-moving or motorless vehicles, *except bicycles*, shall have at least one (1) lamp on the left side of the vehicle whether from the front or rear, showing white and of sufficient power to reveal clearly the outline of the left side of the vehicle and in such a manner that the outline may be observed clearly by approaching vehicles from a distance of at least one hundred (100) feet.

Section 4. KRS 189.080 is amended to read as follows:

Except as provided in any regulations adopted pursuant to Section 1 of this Act, every motor vehicle and bicycle, when in use on a highway shall be equipped with a horn or other device capable of making an abrupt sound sufficiently loud to be heard under all ordinary traffic conditions. Every person operating an automobile or bicycle shall sound the horn or sound device whenever necessary as a warning of the approach of such vehicle to pedestrians, or other vehicles, but shall not sound the horn or sound device unnecessarily. A bell may be used on a bicycle.

Section 5. KRS 189.810 is amended to read as follows:

(1) "Slow-moving vehicle" includes farm machinery, including animal-drawn vehicles, highway construction and maintenance vehicles, and any other type of vehicle *except bicycles*, capable of a rate of speed no greater than twenty-five (25) miles per hour.

(2) "Slow-moving vehicle emblem" consists of a fluorescent yellow-orange triangle with a dark red reflective border, as specified in American Society of Agricultural Engineers R276 or Society of Automotive Engineers J943 standards, or consisting of reasonably similar reflective qualities as specified in said standards.

Section 6. KRS 189.830 is amended to read as follows:

(1) The slow-moving vehicle emblem shall be restricted to the uses specified herein and the use on any other type of vehicle or on other objects is prohibited.

(2) The said emblem shall not be required on trailers or other drawn vehicles which do not obstruct the slow-moving vehicle emblem required on the towing vehicle.

(3) Highway construction or maintenance vehicles and public utility vehicles shall not require said emblems when being guarded by flagmen or flares.

(4) The use of such slow-moving vehicle emblems shall be in addition to any other reflective or lighting devices required by law.

(5) *The slow-moving vehicle emblem shall not be used on a bicycle.*

Section 7. A new section of KRS Chapter 189 is created to read as follows:

A person who elects to operate a bicycle in accord with any regulations adopted pursuant to Section 1 of this Act and who willfully violates a provision of such a regulation shall be fined not more than one hundred dollars. A person who operates a bicycle without complying with any regulations adopted pursuant to Section 1 of this Act or vehicle safety statutes shall be prosecuted for violation of the latter.

HB 365, AN ACT relating to rural electric and rural telephone cooperative corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.020 is amended to read as follows:

Any *three* [five] or more *individuals, partnerships, associations or private corporations* [natural persons] a majority of whom are citizens of Kentucky, may *organize to conduct an electric generation, transmission,*

distribution or service non-profit cooperative corporation to produce, transmit, distribute or furnish energy to any person or corporation and/or to provide electrical devices, wiring and equipment and any services that are requested or deemed advisable or desirable to operate a utility, by executing, filing and recording articles of incorporation as provided in KRS 279.030 and 279.040. [, form a nonprofit cooperative corporation for either of the following purposes:]

[(1) To promote and encourage the fullest possible use of electric energy in this state by making electric energy available by production, transmission, distribution or otherwise to persons in rural areas of the state at the lowest cost consistent with sound business methods and prudent management, and by making available to such person, at the lowest cost consistent with sound business methods and prudent management, electrical devices, equipment, wiring, appliances, fixtures and supplies, and all kinds of tools, equipment and machinery operated by electric energy.]

[(2) To promote and encourage the fullest possible use of electric energy in this state by making electric energy available to persons in rural areas of the state at the lowest cost consistent with sound business methods and prudent management by producing, transmitting, distributing or furnishing electric energy to any corporation formed under this chapter for the purposes provided by subsection (1) of this section and only to such corporation, and by making available to such corporations and only to such corporations, electrical devices, equipment, wiring, appliances, fixtures and supplies, and all kinds of tools, equipment and machinery operated by electric energy, and accounting services, forms and supplies, bargaining services, business counsel and advice, engineering services, supervisory services, investment counsel, general purchasing services of all kinds, and any other services that are requested or deemed advisable or desirable in the conduct of its business by any corporation formed under this chapter for the purposes stated in subsection (1) of this section. Any corporation organized under this chapter may be organized to do any or all of the acts set forth in this subsection.]

Section 2. KRS 279.030 is amended to read as follows:

- (1) The articles of incorporation shall set forth:
 - (a) The name of the corporation, which shall be such as to distinguish it from any other corporation.
 - (b) The purpose for which it is formed.
 - (c) The place, including the county, where its principal office will be located.
 - (d) A reasonable description of the territory in which its operations are to be conducted.
 - (e) The number of directors.
 - (f) The names and post-office addresses of the directors who are to manage the affairs of the corporation for the first year of its existence, or until the first meeting called to elect directors, or until the successors of the first directors are elected and have qualified.
 - (g) The period limited for the duration of the corporation, or that the corporation is to be perpetual.
 - (h) If the corporation is organized without capital stock, the terms upon which members may be admitted and the terms upon which their membership shall terminate.
 - (i) If the corporation is organized with capital stock, the amount of the stock, the number of shares into which it is divided and the par value.
 - (j) If the capital stock is divided into common and preferred stock, as it may be, the number of shares to which preference is granted and the number of shares to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.

(2) The articles of incorporation may contain any other lawful provision that the incorporators choose to insert for the purpose of regulating the business and affairs of the corporation, for the purpose of creating, defining, limiting or regulating the rights, powers and duties of the corporation and its board of directors and members, and the exercise of any such powers, or for the purpose of creating or defining the rights and privileges of the members of the corporation among themselves[.], *including separation of members into classes or districts and providing for representation of each class or district on the board of directors.*

Section 3. KRS 279.040 is amended to read as follows:

(1) The incorporators shall execute *triplicate originals* [four (4) copies] of the articles of incorporation, and each incorporator shall acknowledge each *triplicate original* [copy] before an officer authorized to take acknowledgments of deeds. They shall then file the *triplicate originals* [four (4) copies], together with the certificate of acknowledgment, in the office of the secretary of state. If the secretary of state finds the articles to be legal and valid, he shall immediately indorse his approval on each of the *triplicate originals* [copies], retain, record and file one (1) *triplicate original* [copy] in his office, and deliver the other *two triplicate originals* [three (3) copies], with his approval indorsed thereon, to the incorporators. The incorporators shall then file one (1) approved *triplicate original* [copy] in the office of the county clerk of the county in which the principal office of the corporation is to be located[, and shall file another approved copy with the dean of the college of agriculture of the University of Kentucky.]

(2) As soon as the secretary of state has indorsed his approval on the articles of incorporation, the proposed corporation shall be a body politic and corporate and may transact business in its corporate name.

Section 4. KRS 279.050 is amended to read as follows:

The articles of incorporation may be amended *as provided in this section* at any regular or special meeting of the members of the corporation [or at any special meeting] *duly called [for that] upon notice of the specific purpose.* The amendment shall first be approved by two-thirds (2/3) of the directors and then adopted by a vote representing *not less than a majority of the votes entitled to be cast by the members present in person, or by proxy (if permitted by the by-laws) and voting at such meeting.* [a majority of all the members of the corporation.] The president of the corporation shall make *triplicate originals* [four (4) copies] of the amendments so adopted, and the secretary of the corporation shall attest each *triplicate original* [copy]. Each *triplicate original* [copy] shall be acknowledged by the president and the secretary before an officer authorized to take acknowledgments of deeds, and the president shall then cause them to be filed, approved and recorded in the same manner as is provided by KRS 279.040 for original articles of incorporation, and the amendments shall take effect upon *indorsement* [receiving the indorsed approval] of the secretary of state.

Section 5. KRS 279.060 is amended to read as follows:

[(1) Any nonprofit company or association heretofore organized or doing business under other statutes, or that has attempted to so organize and do business, for the purpose of rural electrification, and in which as many as seventy-five per cent (75%) of the stockholders are farmers, may file with the secretary of state four (4) copies of a written declaration, signed and sworn to by its president and secretary, to the effect that the company or association has, by a majority of its stockholders, decided to accept the benefits and be bound by the provisions of this chapter. If the secretary of state finds the declaration to be legal and valid, he shall indorse his approval on each copy and shall retain one (1) copy in his office. One (1) approved copy shall be filed in the office of the county clerk of the county in which the principal office of the company or association is located, and another approved copy shall be filed with the dean of the college of agriculture of the University of Kentucky. As soon as the secretary of state has indorsed his approval on the written declaration, and the company or association has paid the fees provided for by this chapter, the company or association shall, under its designated name, constitute a body politic and corporate, with full authority to transact business in its corporate name and with all the rights, powers, privileges and benefits of this chapter, and may use in its name the words "Rural Electric Cooperative Corporation (or Association)."]

[(2)] The words "Rural Electric Cooperative" shall not be used in the name of any corporation other than one formed under this chapter.

Section 6. KRS 279.080 is amended to read as follows:

(1) Each corporation formed under this chapter shall have a board of directors of not less than five (5) members, which shall be the governing body of the corporation. Unless otherwise provided in the articles of incorporation, directors need not be members of the corporation. The directors, other than those named in the articles of incorporation, shall be elected annually or as provided for in the bylaws, but no director shall be elected for a longer term than three (3) years. The directors shall receive such compensation and reimbursement of expenses as the bylaws provide. When a vacancy on the board of directors occurs other than by expiration of a term, the remaining members of the board, by a majority vote, shall fill the vacancy *for the remainder of the term* by appointment, unless the bylaws otherwise provide.

(2) Subject to the provisions of the articles of incorporation and the bylaws, the board of directors may adopt rules and regulations governing the procedure of the board and the operations of the corporation, and shall manage and conduct the business and affairs of the corporation.

(3) *The officers of a corporation shall consist of a president, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except that the offices of the president and secretary may not be held by the same person. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.* [The directors shall elect from their own number a president and one or more vice-presidents, and shall also elect a secretary and a treasurer, who need not be either a director or a member. The terms of office and the powers and duties of such officers shall be as defined in the bylaws. The board of directors may combine the offices of secretary and treasurer and designate the combined office as secretary-treasurer, and may elect such assistant secretaries and assistant treasurers, who need not be directors or members of the corporation, as in its judgment is necessary.]

(4) Every officer, employee or agent handling funds, securities or negotiable instruments of or for any corporation created under this chapter shall be required to execute an adequate bond for the faithful performance of his duties in an amount and with security approved by the board.

Section 7. KRS 279.090 is amended to read as follows:

(1) No person may become or remain a member of any corporation formed under this chapter with capital stock except a farmer, a person engaged in the production of agricultural products or livestock, a

cooperative association as defined in the farm credit act, or a corporation organized under this chapter.

(2) No person other than the original incorporators may become or remain a member of any corporation formed under this chapter without capital stock unless, in addition to complying with all membership requirements in the articles of incorporation and bylaws of the corporation, such person uses electric energy supplied by the corporation or by a corporation that is a member of the corporation in question, or such person is a corporation formed under this chapter or is a corporation furnishing electric energy or is a cooperative association as defined in the farm credit act.

(3) Any corporation formed under this chapter without capital stock may provide in its articles of incorporation that, in addition to the requirements for membership set forth in subsection (2) of this section, no person other than the original incorporators may become or remain a member unless that person is a farmer or is a cooperative association within the meaning of the farm credit act, or that a stated percentage of its members must be and remain farmers or cooperative associations within the meaning of the farm credit act.

(4) *Any corporation formed under this chapter may become a member of any other corporation formed under this chapter and may fully avail itself of the facilities and services of that corporation.* [Subject to the provisions of this section, any corporation formed under this chapter for the purposes provided in subsection (1) of KRS 279.020 may become and remain a member of any corporation formed under this chapter for the purposes provided in subsection (2) of KRS 279.020, and may fully avail itself of the facilities and services of that corporation.]

(5) Each member of a corporation organized under this chapter with or without capital stock shall have only one (1) vote, *and memberships shall not be transferrable.* [The property rights and interests of each member of a corporation organized without capital stock shall be equal, and when a member of such a corporation has paid his membership fee in full he shall receive a certificate of membership, setting forth the nature and extent of his interest in the corporation.]

(6) Neither the incorporators nor any member of any corporation formed under this chapter shall be personally responsible for any debt, obligation or liability of the corporation, except for promissory notes given for the purchase of common stock in the corporation.

Section 8. KRS 279.170 is amended to read as follows:

(1) Any two (2) or more corporations created under this chapter [and operating in contiguous territory] may enter into an agreement for their consolidation *to provide service in a continuous territory.* The agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, which shall be not less than five (5), the time of the annual meetings of the consolidated corporation and the names of the directors who are to serve until the first annual meeting. If the agreement is approved by a majority vote of the members of each corporation present and voting at the meeting at which the proposed consolidation is voted upon, the directors named in the agreement shall subscribe and acknowledge articles in *triplicate originals* [quadruplicate] conforming substantially to the original articles of incorporation, and entitled and indorsed "Articles of Consolidation of"

(2) The articles of consolidation shall state:

- (a) The names of the corporations being consolidated.
- (b) The name of the consolidated corporation.

(c) Such other items as are required or permitted to be set forth in the original articles of incorporation.

(3) The articles of consolidation shall be filed, recorded and approved in the same manner, and shall take effect upon approval, as is provided in KRS 279.040 for original articles of incorporation.

(4) The articles of consolidation may be amended in the same manner as articles of incorporation may be amended under KRS 279.050.

Section 9. Section 279.120 of the Kentucky Revised Statutes is amended to read as follows:

(1) Except as provided in subsection (2) of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.

(2) *Except as provided in Section 10 of this Act, [A]ny corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than twenty-five per cent (25%) of its total business, to nonmembers of the corporation, including any federal agency, this state, and any county, city or political subdivision of this state.*

Section 10. A new section of KRS Chapter 279 is created to read as follows:

Notwithstanding the provisions of any other section of the Kentucky Revised Statutes, no corporation formed under this chapter shall transmit, distribute or furnish electric energy for resale, either directly or indirectly, to any electric utility now or hereafter owned or controlled, in whole or in part, by any municipality or municipalities, or instrumentalities thereof, incorporated on the effective date hereof, except to any such electric utility to which such corporation's electric facilities are physically connected on the effective date

hereof; and provided, further, that no provision herein shall prevent a corporation organized under this chapter from interconnecting for exchanges of energy with any such municipal utility which, on the effective date hereof, owns and operates electric generating facilities adequate to supply the electric requirements of the municipality.

The Committee on State Government reported **HB 30**, **HB 217** and **HB 309** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT relating to purchasing by local units of government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, *lease, or other agreement* for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than two thousand five hundred dollars (\$2,500) without first making newspaper advertisement for bids. Provided, however, That this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

HB 217, AN ACT relating to the State Theatre.

WHEREAS, there is a theatre in Kentucky that has won national attention for its professional quality and creative contributions to the dramatic arts, known as Actors Theatre of Louisville; and

WHEREAS, audiences in Detroit, Washington, D. C. and on Broadway in New York City applauding Actors Theatre's original production of "Tricks" have applauded the cultural interests of Kentuckians who have supported this theatre; and

WHEREAS, Kentuckians can again be proud of another Actors Theatre production, "In Fashion," to be shown on National Educational Television on March 13, one of five selected in the nation; and

WHEREAS, Actors Theatre has contributed to the enjoyment of Kentuckians across the Commonwealth with its touring musicals and children's plays and to the development of dramatic theatre in Kentucky through its educational workshops; and

WHEREAS, Actors Theatre has earned a special distinction in the Commonwealth; and

WHEREAS, with recognition and support all Kentucky can benefit from its accomplishments.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.110 is amended to read as follows:

Actors Theatre of Louisville [The Pioneer School of Drama, Inc., known as the Pioneer Playhouse throughout the whole of these United States,] is hereby designated and declared to be the state theatre of Kentucky. The state theatre, so designated and declared, may be engaged to present public plays and performances at any and all of the state parks throughout the commonwealth, may create and present public plays and performances throughout the commonwealth and may meet with regional groups to help develop ideas in drama, pageants and centennials, help in tourist promotion, create a playwrights' center and art colony, and offer accreditation of college credits through the state colleges and *universities* [university], upon and with the approval of the state department of education.

HB 309, AN ACT relating to legislative auditing and the Joint Interim Committee on Appropriations and Revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.360 is amended to read as follows:

The intent of KRS 6.360 to 6.415 is to insure *systematic and thorough evaluations* [the postauditing] of *agencies* [each agency] of the state government *and their various programs* for the purpose of furnishing the legislature with factual information necessary to the discharge of its legislative duties. The general assembly finds that adequate information is not available for each session through which the members of the legislature can determine the needs of the various agencies and departments of the state government, and the *effectiveness of their programs* [postauditing of each agency will furnish necessary information]. The general assembly also finds that the legislative session is not adequate time in which to review the financial operations of each agency. It is the intent of KRS 6.360 to 6.415 to provide the legislature with adequate factual information by which to exercise its valid powers.

Section 2. KRS 6.365 is repealed as follows:

[The senate and the house of representatives each shall submit to the legislative research commission a list of four (4) members of the majority party and two (2) members of the minority party from the respective houses of the general assembly, nominated by party caucuses in the respective houses. From this list the commission shall appoint two (2) members of the majority party and one (1) member of the minority party from each house, to constitute the legislative audit committee. The committee shall be a subcommittee of the commission. The term of all members shall be two (2) years from March 1 of each year in which the general assembly meets in regular session and until their successors are appointed and have qualified. If a member of said committee ceases to be a member of the general assembly, his appointment shall be vacated and the commission shall appoint a successor from the same house and party as that member to serve the remaining portion of his term. Members shall receive as compensation twenty-five dollars (\$25.00) per day spent in the performance of their duties and shall be reimbursed for reasonable and necessary expenses in connection with such duties.]

Section 3. KRS 6.370 is amended to read as follows:

(1) The *Joint Interim Committee on Appropriations and Revenue* [committee] shall study and examine expenditures of state agencies. The committee may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 6.360 to 6.415.

[(2)] The committee may engage such accounting and consulting firms, specialists, technicians or other persons as are deemed necessary for the performance of its duties.]

(2)/[(3)] The committee may adopt rules and prescribe procedures for the conduct of its affairs.

(3)/[(4)] The committee may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Court of Appeals may on application of the committee compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the committee by its order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the committee.

Section 4. KRS 6.375 is repealed as follows:

[(1)] The committee shall examine persons to serve as auditor as to qualifications and ability, and upon completion of the examination, place the name of the person selected in nomination before the legislature or the legislative research commission for appointment as legislative auditor.]

[(2)] The legislative auditor shall be qualified in public finance or government administration, with at least five (5) years' appropriate experience prior to his appointment. The name of the person nominated by the committee as legislative auditor shall be presented to the legislature or legislative research commission for appointment. The legislative auditor shall serve at the pleasure of the legislature, and when the legislature is not in session, he may be removed for cause by a majority recommendation of the committee, approved by the legislative research commission, after notice by and public hearing before the committee or legislative research commission. If a vacancy in the position of legislative auditor occurs when the legislature is not in session, the position may be filled by the legislative research commission upon recommendation of the committee.]

[(3)] Upon appointment, the legislative auditor shall execute a bond, to cover his official acts, in the sum of \$10,000 conditioned upon the faithful discharge of his duties, with a surety company authorized to do business in the state. The state shall pay the premium on the bond.]

Section 5. KRS 6.380 is amended to read as follows:

The committee may [direct the legislative auditor to]:

(1) Perform an audit *or investigation* of any accounts, books and other financial records of the state government, or of any officer, department, board, bureau, institution, commission, agency, or other unit, of the state [and prepare a written report of the audit for presentation to the committee];

(2) Examine and audit any fiscal books, records and accounts of custodians of public funds, and of disbursing officers of the state, making independent verification of all assets, liabilities, revenues and expenditures of the state and agencies of the state;

(3) *Review and evaluate any program supported in whole or in part by state appropriation. In any instance in which a program review indicates inadequate operating or administrative system controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee may report its findings to the general assembly.*

(4)[(3)] Perform audit of any agency, private or semiprivate agency or organization receiving state funds;

(5) *The committee may, at any time, study or review any matter relative to program activities of any state department, agency, or institution.*

(6)[(4)] Require the assistance of any executives and officials, auditors, accountants, and other employees of any agency at any time in the inspection, examination and audit of books, accounts and records.

Section 6. KRS 6.385 is amended to read as follows:

[(1)] The legislative auditor shall employ the most efficient personnel available. It is the intention and desire of the general assembly to free the legislative auditor and his staff from partisan politics. The auditor and the staff shall not engage in or be associated with any partisan political activity.]

[(2)] The legislative auditor may not serve in any ex officio capacity on an administrative board or commission, or have a financial interest in the transactions of any agency.]

[(3)] The salary of the legislative auditor shall be established by the legislature or the legislative research commission at not more than \$17,500 per year. Other employees of the committee shall be paid in the same manner and through the same procedure used for the payment of salaries of other state employees. All employees shall be covered by the state merit system and classification and pay plan.]

The legislative research commission shall, subject only to the availability of funds, assign or employ such staff as may be required to enable the committee to perform its duties.

Section 7. KRS 6.390 is amended to read as follows:

A member of the general assembly may, by written request and by written notice of at least six (6) days, request the committee to direct a special review [audit] of any state agency, unit or program. Upon the vote of the majority of the committee approving the request, the *director of the legislative research commission* [legislative auditor] shall *cause such review to be made* [make the audit].

Section 8. KRS 6.395 is amended to read as follows:

[(1)] The committee shall file copies of its approved [audit] reports together with the committee's recommendations with the *legislative research commission* [governor]. The committee shall file an annual report [with the governor] not later than *December 1*. [September 1. Each annual report shall contain a copy of the audit reports on the various agencies or the substance of the audit reports and a summary of recommendations made in regard to them.] Each annual report shall be open to public inspection after it is filed with the *legislative research commission* [general assembly], except that *any* [the] portion of the annual report containing recommendations, comments and narrative statement shall be released only upon the approval of a majority vote of the committee.

[(2)] No audit report or recommendation shall be released or filed for public inspection until the governor has received a copy.]

Section 9. KRS 6.400 is repealed as follows:

[Recommendations submitted by the legislative auditor shall be confined to seeing that the laws adopted by the general assembly dealing with the expenditure of public money are carefully observed, and that the attention of the general assembly is directed to cases of apparent violations of the law and to those instances where there is need for change of existing laws or the passage of new laws to obtain the efficient spending of public funds, and to the manner or form of appropriations which will avoid any improper expenditure of money.]

Section 10. KRS 6.405 is amended to read as follows:

In the course of *its* [his] investigations and studies, the *committee* [legislative auditor] may ascertain the amount on deposit in any bank belonging to the agency audited, and may audit the account on the books of the bank. No bank is liable for making available to the *committee* [legislative auditor] any of the information required under this section.

Section 11. KRS 6.410 is amended to read as follows:

The *legislative research commission* [legislative auditor] shall keep a complete, accurate and adequate set of fiscal transactions of the *committee* and [division of legislative audit. He] shall keep a complete file of copies of all audit reports, examinations, investigations, and other reports or releases issued by the *committee* [his office.] and a complete file of audit work papers and other evidence pertaining to the work of the committee.

Section 12. KRS 6.415 is amended to read as follows:

KRS 6.360 to 6.415 *do* [does] not authorize or permit the publication of information prohibited by law.

Calendar

HB 327, HB 362 with Committee Amendment attached thereto, **HB 247, SB 23** with Committee Amendment attached thereto, **HB 14, HB 49, HB 95, HR 29, HB 50, HB 306, HB 316**, and **SB 81** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 15** has been examined and found correctly enrolled. **SB 15** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Senate Message

Announcing passage of **SB 56, SB 69, SB 91, SR 16, HB 29** and **HB 124**.

Motions, Petitions and Communications

Representative Reynolds moved that a call of the roll be taken for co-sponsors of **HB 491**. Agreed.

The following members voted to co-sponsor **HB 491**: Representatives Bennett, Benson, Beshear, Blandford, Blume, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Dawahare, Dietz, Foster, Guenther, Hancock, Harris, Head, Imes, Isler, Kenton, Kidd, Lewis, Little, Loudon, McBee, Pearman, Roberts, Romines, Sharpe, Siemens, Stephens, Stewart, Vincent, Watkins, Wible.

The following members requested that their names be added as co-sponsors of Bills: Representative Benson, **HB 229**; Representative Imes, **HB 311**; Representative Hancock, **HB 257**; Representative Siemens, **HB 217**; Representative Kleier, **HB 217**; Representative Crupper, **HB 9**.

Representative Roberts requested that he be recorded as voting "yea" on **SB 15**.

Representative Siemens moved that **HB 50** be recommitted to the Committee on Labor and Industry. Agreed by a majority of members elected.

Representative DeMarcus filed Floor Amendment No. 1 to **HB 217**.

Representative Imes filed Floor Amendment No. 1 to **HB 50**.

Representative Swinford moved that the Legislative Citations be read. Agreed.

Representative Wells moved the adoption of the following Legislation Citation No. 34:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Wallace Chambers for having been named Defensive Rookie of the Year by the National Football League. This body commends this Eastern Kentucky University graduate and former E. K. U. football star for being the only member of the Chicago Bears selected to play on the National Football Conference All-Star Team in the annual Pro-Bowl Game and further recognizes that through these and other accomplishments, Wallace Chambers has drawn favorable attention and credit to the Commonwealth of Kentucky. (Sponsored by Representative Wells)

Agreed.

Representative Swinford moved that **HB 348** be taken from the Committee on Public Utilities and Transportation and reassigned to the Committee on Judiciary. Agreed.

Orders of the Day

Representative Swinford moved that consideration of **HB 67** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 98** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative DeMarcus moved the adoption of the following Floor Amendment No. 1 to **HB 98**:

Amend printed copy of House Bill 98 page 4, after line 13, by adding a new section to read as follows:

Section 7. The provision of this Act shall be permissive rather than mandatory with respect to cities of the fifth and sixth classes.

Representative Morgan moved that **HB 98**, with Floor Amendment attached thereto, be laid on the Clerk's desk.

On the roll call the vote was yeas 60-Adams, Arnold, Bennett, Blandford, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, Denham, Dunn, Foster, Freeman, Gay, Guenthner, Hardin, Harris, Hislope, Hopkins, Hughes, Hurst, Imes, King, Lindsay, Little, Loudon, Mason, May, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stewart, Stone, Swinford, Thomas, Troop, Turner, Watkins, Wells, J. White, Whitfield, Yates. Nays 32-Allen, Benson, Beshear, Blume, Blythe, Bruce, Crupper, DeMarcus, Dietz, Donnermeyer, Givhan, Graves, Hancock, Hellard, Hinkle, Isler, Kafoglis, Kareem, Kenton, Kleier, Mann, Maynard, McGill, Nett, Paxton, Quickert, Richardson, Siemens, Stephens, Van Horn, Vincent, Wible.

The motion that **HB 98**, with Floor Amendment attached thereto, be laid on the Clerk's desk was adopted.

Representative Swinford moved that **HB 229**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hopkins moved the adoption of the Committee Amendment to **HB 229**. Agreed.

Representative Hopkins moved the adoption of **HB 229** as amended.

Representative Mason moved that **HB 229** as amended be laid on the Clerk's desk.

On the roll call the vote was yeas 12-Arnold, Crupper, Dawahare, Harris, King, Loudon, Mason, Maynard, McBride, Morgan, Pearman, Stone. Nays 71-Allen, Bennett, Benson, Beshear, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Kafoglis, Kareem, Kenton, Kidd, Lewis, Little, Mann, May, McBrayer, McGill, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Stephens, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, Whitfield, Wible, Yates.

The motion that **HB 229** as amended be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 86-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan,

Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 4-King, McBride, Pearman, Stewart.

HB 229 as amended was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 229** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 29** and **HB 124** have been examined and found correctly enrolled. **HB 29** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 502, by Representatives Priddy, Donnermeyer, Bennett, Blandford, R. Brown, Burch, Chandler, Dietz, Graves, Head, Kenton, King, Kleier, Lewis, Mann, McBrayer, Morgan, Nett, Pearman, Romines, Schmidt, Stephens, Van Horn, and Watkins: AN ACT relating to rights and duties of policemen and firemen.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 223, HB 230, HB 254, HB 289, HB 310, HB 323, HB 354, HB 392, HB 410, HB 429, HB 445, HB 460, SB 105, HB 455.**

Labor and Industry: **HB 50.**

Representative DeMarcus filed Floor Amendment No. 1 to **HB 67.**

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Thursday, February 7, 1974.

On the roll call the vote was yeas 91-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Yates. Nays 0.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 7, 1974
TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend Charles King, Corinthian Baptist Church, Frankfort.

The roll was called. All present except Representatives E. Brown and Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives E. Brown and Smith.

Representative Hughes moved that the reading of the Journal of February 6, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 503, by Representatives Chandler, Bennett, Benson, Blythe, Brewer, R. Brown, Burch, Clarke, Denham, Dunn, Foster, Gay, Guenthner, Hardin, Harris, Holloway, Hughes, Kafoglis, Karem, Kenton, Kleier, Lewis, Maynard, Nett, Priddy, Quickert, Romines, Sharpe, Siemens, and Yates: AN ACT relating to motor vehicle operator's licenses.

HB 504, by Representative Karem: AN ACT relating to occupational license fees in counties having 300,000 or more inhabitants.

HB 505, by Representative Bruce: AN ACT relating to motor vehicles and trailers.

HB 506, by Representative Wible: AN ACT relating to descent and distribution providing for the enactment of the Uniform Disposition of Community Property Rights at Death Act.

HB 507, by Representative Wible: AN ACT relating to the disclaimer of transfers at death.

HB 508, by Representative Troop: AN ACT relating to residence requirements for public office and employment.

HB 509, by Representative Imes: AN ACT relating to foxes.

HB 510, by Representatives Paxton and Foster: AN ACT relating to reservation of certain tax receipts for urban roads and streets.

HB 511, by Representatives Richardson, Givhan, Hellard and Karem: AN ACT relating to title by a commissioner's deed.

HR 46, by Representatives Hislope, Givhan and Denham: A RESOLUTION relating to turning on the light.

HR 47, by Representatives Kafoglis and Richardson: A RESOLUTION directing the Council on Public Higher Education to study ways to improve veterinarian services in the state.

HR 49, by Representatives Holbrook, McBrayer, Benson, Beshear, Chandler, Guenther, Karem, King, Lewis, McGill, Overstreet, Quickert, Schmaedecke, Stone, Troop, Van Horn, Whitfield and Wible: A RESOLUTION proclaiming Law Day U.S.A.

HR 48, by Representative Blythe: A RESOLUTION inviting John Y. Brown, Sr., to address the General Assembly.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 498**.

Appropriations and Revenue: **HB 489, HB 490, HB 497**.

Cities: **HB 501**

Counties and Special Districts: **HB 494**.

Education: **HB 500**

Elections and Constitutional Amendments: **HB 495, HB 499, HB 502**.

Health and Welfare: **HB 479, HB 492, HB 496**.

State Government: **HB 488, HB 491, HB 493**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HR 31, HB 399, HB 413, HB 427, HB 435, HB 474, HB 484, HB 500**.

Health and Welfare: **HB 400, HB 402, HB 377, HB 376, HB 382, SB 70**.

Report of Committees

The Committee on Agriculture and Natural Resources reported **HB 128, HB 304, HB 356, HB 359**, and **HB 389** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 128, AN ACT relating to registration of foresters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 149 is created to read as follows:

As used in this Act:

(1) "Registered Forester" means a person who has registered, qualified, and received a certificate of registration under this Act to engage in the practice of professional forestry as hereinafter defined.

(2) "Practice of Professional Forestry" means any professional service involving the overall application of scientific principles of silviculture, forest utilization, forest management, and protection in connection with any public or private lands, wherein public welfare and property are concerned or involved when such professional service requires the application of forestry principles, specialized techniques and data.

(3) "Board" means the State Board of Registration for Foresters.

Section 2. A new section of KRS Chapter 149 is created to read as follows:

It shall be unlawful for any person to practice or offer to practice the profession of forestry or engage in consultation, investigation, evaluation, planning, or responsible supervision of any forest activities in connection with any private or public lands as a registered forester or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a registered forester, without being registered in accordance with the provisions of this Act.

Section 3. A new section of KRS Chapter 149 is created to read as follows:

The minimum qualifications and requirements for registration as a forester shall be as follows:

(1) Graduation from a school, college or department of forestry approved by the board, and a specific record of an additional two years or more experience in forestry work of a character satisfactory to the board indicating that the applicant is competent to practice forestry.

(2) Graduates of schools of forestry not approved by the board may be registered after two years of experience of a character satisfactory to the board, and after successfully passing a written examination approved by the board and designed to show knowledge and skill approximating that obtained by graduation from a school, college or department of forestry approved by the board.

(3) No person shall be eligible for registration as a forester who is not of good moral character and reputation.

(4) It shall be the duty of the board by regulation to define "experience" as used in this section, and in so doing, the board shall consider and give effect to the nature, quality and extent of such "experience".

(5) Any person who shall have been engaged in the practice of professional forestry as defined in Section 1 of this Act for a period of at least ten years immediately preceding the effective date of this Act shall be eligible for registration as a forester without reference to the requirements set forth in subsections (1) and (2) of this section; provided, that such person files application for registration with the board within thirty days from the effective date of this Act.

Section 4. A new section of KRS Chapter 149 is created to read as follows:

Application for registration shall be made on forms furnished by the board and shall contain such information as the board shall require.

The fee, not to exceed \$20, for registration as a forester shall be fixed by the board and shall accompany the application and the other half shall be paid upon issuance of the certificate of registration.

Section 5. A new section of KRS Chapter 149 is created to read as follows:

When examinations are required, they shall be held at such time and place as the board may determine. A candidate failing the examination may apply for re-examination six months later and will be re-examined without the payment of additional fees. Subsequent examinations may be granted by the board upon the payment of a fee to be determined by the board.

Section 6. A new section of KRS Chapter 149 is created to read as follows:

(1) Upon compliance with the requirements of this Act and the rules and regulations promulgated pursuant to this Act, the applicant shall be entitled to a certificate of registration.

(2) The certificate of registration shall show on its face:

(a) The full name of the registrant;

(b) A serial number;

(c) The signature of the chairman of the board.

(3) All plans, maps, specifications and reports issued by a registrant shall be endorsed with his name and serial number during the life of the certificate of registration.

Section 7. A new section of KRS Chapter 149 is created to read as follows:

(1) Certificates of registration shall expire on the thirty-first day of December next following their issuance or renewal.

(2) The secretary of the board shall notify, at his last known address, every person registered under this Act of the date of the expiration of his certificate or registration and the amount of the fee that will be required for its renewal, such notice to be mailed at least one month in advance of the expiration date.

(3) The fee, not to exceed \$20, for the renewal of a certificate of registration shall be determined by the board.

Section 8. A new section of KRS Chapter 149 is created to read as follows:

Any non-resident of Kentucky, or any person within six months after becoming a resident of Kentucky, who has been registered as a forester under the laws of another state, may be registered under the laws of Kentucky by reciprocity without having to qualify under the other provisions of this Act subject to the following conditions:

(1) That the requirements and qualifications for registration under the laws of the state in which such person is registered are substantially equivalent to those of Kentucky, as determined by the board;

(2) That such state permits registration of foresters registered in Kentucky on terms substantially equivalent to those of this section, as determined by the board;

(3) Notwithstanding the foregoing, the board may decline to register by reciprocity any such person on an individual basis where the board determines that such applicant does not possess good character, has been guilty of fraud in making application under the provisions of this Act, or where the board determines by examinations or otherwise that such applicant is not in fact qualified to become registered as a registered forester.

Section 9. A new section of KRS Chapter 149 is created to read as follows:

(1) The board may upon the vote of three or more of its members revoke the registration of any registrant if it finds:

(a) That he is guilty of gross negligence, incompetency, or misconduct in the practice of forestry; or
(b) That he has violated any provision of this Act or has failed to comply with any rule or regulation lawfully made pursuant thereto; or

(c) That any fact or condition exists which clearly would have warranted refusal to issue a certificate of registration on an original application.

(d) That he has given false or forged evidence of any kind to the board or any member thereof in obtaining registration.

(2) Before the revocation of a registrant's registration under subsection (1), the registrant shall be accorded a hearing by the board at such time and place as the board may determine; provided, however, that the board shall notify the registrant of the charges against him and the time and place of the hearing, personally or at his last known address, at least thirty days prior to the date set for the hearing.

(3) The board may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court.

(4) Witnesses called by the board shall receive the same compensation and shall be reimbursed for expenses in the same manner as if they were board members.

(5) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(6) The board shall not be bound by the rules of evidence, but the hearing shall be conducted with fairness to all parties concerned.

(7) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken.

(8) The order of the board revoking a registrant's registration shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(9) A copy of an order revoking a registrant's registration shall be served upon the registrant by registered mail immediately upon entry by the board.

Section 10. A new section of KRS Chapter 149 is created to read as follows:

(1) Any registrant whose registration is revoked may appeal from the order of revocation by filing in the Franklin Circuit Court a notice of appeal and a copy of the order of the board within sixty days of the date of entry of the order. He shall execute bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The registrant shall cause a copy of the notice of appeal to be served upon the board.

(2) Within thirty days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of the parties, the record may be shortened.

(3) The filing of the notice of appeal shall not stay enforcement of the order; but upon motion of the appellant the Franklin Circuit Court, in its discretion, may order a stay pending decision of the appeal. If the time for renewal of the certificate of registration occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court shall set the case for hearing without a jury and dispose of the appeal in a summary manner, being confined to the record made before the board except that new evidence may be introduced as to fraud. The court may hear oral arguments and receive written briefs. The court may affirm or set aside the order of the board, or may remand the case to the board for further evidence.

(5) Any aggrieved party may secure a review of an adverse judgment of the Franklin Circuit Court under this Act by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedures.

Section 11. A new section of KRS Chapter 149 is created to read as follows:

(1) There is hereby created a State Board of Registration for Foresters whose duty it is to administer the provisions of this Act. The board shall consist of five (5) foresters who shall be selected and appointed by the Governor from among ten (10) nominees recommended by the Kentucky Forester Licensing Committee of the Kentucky-Tennessee Section of the Society of American Foresters. Each member of the board shall be a

citizen of the United States, a resident of the Commonwealth of Kentucky and shall have been engaged in the practice of the profession of forestry for the last ten (10) years prior to his appointment.

(2) Two (2) members of the initial board shall be appointed for a term of one year; one (1) member shall be appointed for a term of two (2) years; one (1) member shall be appointed for a term of three (3) years; one (1) member shall be appointed for a term of four (4) years. Thereafter, the term of the members of the board shall be four (4) years, and until their successors are duly qualified and appointed. At the expiration of the term of any member of the board the Governor shall appoint another member from among three (3) nominees, who shall be qualified and recommended according to subsection (1) of this section. A member of the board may be reappointed to succeed himself.

(3) The Governor may remove any member of the board for misconduct, incompetency or neglect of duty. Appointment to fill vacancies shall be for the unexpired term, and shall be filled in the manner provided for the appointment of members of the board.

(4) Each member of the board shall receive a sum of \$10 for each day actively engaged in attending to the work of the board or any of its committees, including time spent in necessary travel, and in addition shall be reimbursed for all traveling and incidental expenses incurred in the performances of his official duties.

(5) The board shall designate one of its members as Chairman and one as Secretary of the Board. It shall be the duty of the Secretary to receive and account for all moneys derived under the provisions of this Act.

Section 12. A new section of KRS Chapter 149 is created to read as follows:

(1) The board shall adopt an official seal and may promulgate all reasonable regulations not inconsistent with this Act that are necessary to carry into effect the purposes of this Act according to the provisions of KRS 13.075 to 13.125.

(2) The board may employ and discharge such clerical and other personnel as may be necessary for the proper performance of its work.

(3) The board may make expenditures for any other purpose which is necessary for the proper performance of its work and the administration of this Act. All fees and charges collected by the board under the provisions of this chapter shall be paid to the State Treasury through the Department of Finance, and shall be credited to an agency fund account for the Board of Registration for Foresters under the provisions of KRS Chapter 45 and shall be withdrawn or expended as provided in KRS Chapter 45.

(4) The board shall keep a record of its proceedings and a register of all applications for registration. The register shall contain such information as the board deems necessary. On the thirtieth day of June in each year, the board shall submit to the Governor a report of its transactions and proceedings, and shall transmit to him as a part of said report a complete statement of the receipts and expenditures of the board. The statement shall be attested by the Chairman and the Secretary of the board.

(5) A roster showing the name and place of business of all registered foresters qualified according to the provisions of this Act, shall be prepared by the secretary of the board during the month of March of each year. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State, and furnished to the public upon request.

Section 13. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense.

Section 14. A new section of KRS Chapter 149 is created to read as follows:

Within sixty days from the passage of this Act the Governor shall appoint the members of the board.

Section 15. A new section of KRS Chapter 149 is created to read as follows:

This Act shall become effective January 1, 1975.

HB 304, AN ACT relating to the Kentucky Horse Council.

WHEREAS, the horse industry is and continues to be an essential contributor to the overall economy of the Commonwealth and brings national and international attention to the Commonwealth; and

WHEREAS, the horse industry in the Commonwealth is made up of many different breeds of horses and affiliated organizations; and

WHEREAS, there are an estimated 200,000 horses in this state and the combined investment and annual expenditures of the Kentucky Thoroughbred industry alone is estimated to be 650 million dollars; and

WHEREAS, there is a continuing need to represent Kentucky's horse industry as a whole in matters of local, state and national importance; and

WHEREAS, other states with climates conducive to year-round racing and other outdoor activities relating to horses have developed substantial horse industries of their own, and 15 state horse councils are currently promoting and protecting these industries in their respective states; and

WHEREAS, every effort should be made to preserve and strengthen the horse industry in the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 230 is created to read as follows:

(1) There is hereby created the Kentucky Horse Council which shall be an independent agency of state government but which shall be attached to the Executive Department for Finance and Administration for administrative support services. The council shall be composed as follows:

(a) The Governor shall appoint a total of seven members. Not more than two members shall be representatives of the same horse group in Kentucky and no more than two members shall be directors of the same horse association. Any vacancy on the council shall be filled by the Governor for the unexpired term. Each member shall be eligible for reappointment at the discretion of the Governor. Members shall serve without salaries, but shall be reimbursed for all expenses paid or incurred in the discharge of official business. The council shall designate one of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each member shall take the constitutional oath of office.

(b) The members of the council appointed by the Governor shall hold their offices for a term of four years; however, the terms will be staggered so that in initially composing the council two members shall be appointed for a period of two years, two for three years and three for four years.

(c) A member of the House of Representatives and a member from the Senate shall be appointed to the council by the Legislative Research Commission. These members shall hold their offices during their tenure in the General Assembly.

(d) The council shall establish and maintain a general office for the transaction of its business and may at its discretion establish a branch office or offices. The council may hold meetings at any of such offices or at any other place when the convenience of the council requires. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the council shall constitute a quorum for the transaction of its business or exercise of any of its powers.

(2) Meetings of the council shall be held at least quarterly but may be held more frequently as deemed necessary subject to call by the chairman or by request of a majority of the council members. Council meetings shall concern policy matters relating to the importance of the horse industry to the Commonwealth and the preservation and the improvement of the horse industry in the Commonwealth, and actions contributing to the growth and well being of clubs, 4-H activities, pleasure horse riding, youth activities or any kind relating to horses and other matters as are necessary to carry out the intent of this Act.

(3) Each member of the council shall have one vote and a majority vote of the members present shall control on all questions.

(4) Funds for the operation of the council shall come from subscriptions charged to members, such legislative appropriations as made by the General Assembly and grants which may be received from time to time from private, federal or state agencies, and from individuals having an interest in the horse industry.

Section 2. A new section of KRS Chapter 230 is created to read as follows:

The Kentucky Horse Council shall:

(1) Formulate policies and procedures as necessary to carry out the provisions of this Act;

(2) Promulgate rules and regulations as necessary to carry out the provisions of this Act;

(3) Annually provide the Governor a report by January 30 and provide the General Assembly a report by January 30 showing the status of the horse industry within the Commonwealth and recommend any action necessary to preserve and strengthen that industry; and

(4) Employ staff personnel, if any, as it may deem necessary to implement the business of the council and the intent of this Act. The council shall fix the compensation of such employes and any employe of the council shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the council.

HB 356, AN ACT relating to the Kentucky Farm Development Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.320 is amended to read as follows:

(1) The authority is empowered to guarantee loans for the purchase of farm land and buildings thereon, or for buildings to be erected thereon, *or for farm machinery or for livestock*, by applicants who

comply with the provisions of KRS 246.310 to 246.410. The guarantee shall not exceed \$20,000 of any loss suffered by an approved mortgagee *or secured creditor*. The aggregate of all guaranteed loans shall at no time exceed the amount of the Farm Development Loan Guarantee Fund as provided in KRS 246.410 when multiplied by thirty.

(2) For the purposes of subsection (1) of this section farm land is defined as:

(a) Any tract of land of at least ten contiguous acres in area used for the production of livestock, livestock products, and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average gross income including payments under a state or federal program of at least \$1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount. Land devoted exclusively to the growing of merchantable timber is excluded from the gross income provisions; or

(b) Any tract of land of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits, vegetables, flowers or ornamental plants or the production of poultry or poultry products, where such activities produced an average gross income of at least \$1,000 per year during the two years immediately preceding the tax year or there is evidence of anticipated yearly gross income of this amount.

(3) *For the purposes of subsection (1) of this section farm machinery and livestock shall have the meanings as defined in KRS 139.480.*

(4) [(3)] The authority shall make rules and regulations reasonably necessary to carry out the provisions of KRS 246.310 to 246.410.

Section 2. KRS 246.330 is amended to read as follows:

Persons who apply for guarantees on farm development loans shall make application to the authority on forms furnished by the authority. The following information shall be included in the application:

(1) Proof that the applicant is unable to obtain funds with which to purchase farm land, *farm machinery or livestock* without a guarantee from the authority.

(2) Proof of intention to use the land for farm purposes, and of the suitability of the land for that purpose.

(3) Proof that the applicant is purchasing or has a fee simple title to real estate, *farm machinery or livestock*, free of all liens superior to this mortgage *or security agreement*.

(4) Such information as to the assets, liabilities, credit and character of the applicant as are reasonably necessary for the use of the authority to determine whether the applicant will be able to meet his mortgage payments *or installment loan payments*.

Section 3. KRS 246.340 is amended to read as follows:

(1) A copy of the mortgage to be executed shall be filed with the application. The mortgage shall be made to and held by a mortgage approved by the authority as responsible and able to service the mortgage properly. It shall have a maturity date satisfactory to the authority but not to exceed twenty-five (25) years from the date of the execution of the mortgage.

(2) *A copy of the security agreement to be executed shall be filed with the application. The security agreement shall be made to and held by a secured creditor approved by the authority as responsible and able to service the loan properly. It shall have a maturity date satisfactory to the authority.*

Section 4. KRS 246.370 is amended to read as follows:

When the authority approves an application for a farm development loan guarantee, it shall issue a letter of farm development loan guarantee, duly signed by the authorized agent of the authority. Copies shall be sent to the applicant, [and to] the mortgagee *or the secured creditor*. An approved applicant shall pay to the Farm Development Loan Fund a funding fee equal to 1 percent of the total amount of the loan to be guaranteed. The funding fee shall be paid annually upon the anniversary of the loan and shall be deposited with the state treasurer by the authority to the credit of the trust and agency fund provided for in KRS 246.410, and shall be used for administrative expenses as provided herein; provided, however, that the commissioner of finance may transfer any portion of this fund not required for administrative expenses to the fund established under KRS 246.410.

Section 5. KRS 246.380 is amended to read as follows:

When a default occurs on a loan guaranteed by KRS 246.310 to 246.410, the authority shall be immediately informed by the mortgagee *or secured creditor*. If it becomes necessary for the mortgagee *or the secured creditor* to foreclose and to sell the land, *farm machinery or livestock* in order to recover the purchase price, the authority shall be kept informed of all action taken by the mortgagee *and secured creditor*, and shall be authorized to bid at the sale of the land, *farm machinery or livestock*. When the land, *farm machinery or livestock* is sold to recover any judgment, the authority shall authorize payment by the state treasurer from the farm development guarantee loan fund to the mortgagee *or secured creditor* the difference, if any, between the sale price and the amount remaining due on the judgment, except that such payment shall not exceed the

amount of the loan guarantee.

Section 6. KRS 246.390 is amended to read as follows:

When a guaranteed loan is paid in full, the mortgagee *or the secured creditor*, upon request of the authority, shall release the authority from further obligation by signing a form of release provided by the authority.

HB 359, AN ACT relating to the dissolution of cooperative associations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 272.325 is amended to read as follows:

(1) An association may discontinue its operations, settle its affairs, and voluntarily dissolve upon the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by its members present in person, or by proxy (if permitted by the bylaws), and voting, or if the association has adopted a delegate plan of voting, upon the affirmative vote of not less than two-thirds (2/3) of the delegates present in person and voting, at any annual or special meeting duly called and convened.

(2) An association so determining to dissolve and wind up, shall designate a committee of three (3) of its members, who shall, on behalf of the association and within the time fixed in their designation, or any extension thereof, liquidate the association's assets, pay its debts and expenses, and divide its net assets among the members and stockholders pursuant to its articles of incorporation, bylaws, or contracts with members, upon final settlement by such committee, the association shall be dissolved. The committee shall prepare a report of the proceedings had under this section. The report shall be subscribed by the committee members and acknowledged by them before an officer authorized by the law of this state to certify acknowledgments of deeds and conveyances; and shall be filed and recorded in accordance with the statute relating to corporations generally, and when so filed the report, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due dissolution of such association. A copy of the report, endorsed by the secretary of state with the fact and time of recording in his office, shall be filed with the dean of the college of agriculture of the University of Kentucky and with the commissioner, department of agriculture.

(3) After the payment of the association's debts and after provision has been made for the retirement of its capital stock outstanding, if any, at par and accruals thereon, and other fixed obligations, if any, held by members, the net assets remaining if no provision is made in the association's articles of incorporation, bylaws, or contracts with members may be distributed to members and other patrons by distribution based on dollar volume of purchases by such members and patrons or other unit of measure or on products marketed as shown by the association books over the preceding five (5) fiscal years or if the estimated cost of making such distribution, in the opinion of the committee approximate more than fifty per cent (50%) of the amount available for distribution, the association may dispose of its net assets by converting them to cash and paying the money over to the college of agriculture of the University of Kentucky, *or to any non-profit farm organization operating within the areas served by the cooperative.*

HB 389, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 350 is created to read as follows:

(1) The Department for Natural Resources and Environmental Protection shall promulgate rules and regulations for the reclamation of land disturbed or removed by activities resulting from or incident to a mine as defined in KRS 352.010(1)(s). Those activities shall include, but not be limited to, the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and all lands affected by haulage, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface.

(2) The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department on the

recommendation of the director of not less than five hundred dollars (\$500) nor more than fifteen hundred dollars (\$1,500) for each acre or fraction thereof of the area of land affected, with a minimum bond of five thousand dollars (\$5,000) conditioned upon the faithful performance of the requirements set forth in this section and of the rules and regulations of the department.

Section 2. The Commissioner of the Executive Department for Finances and Administration shall transfer funds appropriated for the purposes of this Act to the Department for Natural Resources and Environmental Protection.

The Committee on Banking reported **HB 467** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 467, AN ACT relating to interest and usury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 360.010 is amended to read as follows:

(1) The legal rate of interest is six per cent per annum, but any party or parties may agree, in writing, for the payment of interest in excess of that rate as follows: (a) at a rate not in excess of eight and one-half per cent per annum on money due or to become due upon any contract or other obligation in writing [secured by a lien on one single unit family residential real estate property, (b) at a rate not in excess of eight and one-half per cent per annum on money due or to become due upon any contract or other obligation in writing] where the original principal amount is *fifteen thousand* [twenty-five thousand] dollars or less, and (b) [(c)] at any rate on money due or to become due upon any contract or other obligation in writing [(except those mentioned in (a) above)] where the original principal amount is in excess of *fifteen thousand* [twenty-five thousand] dollars; and any such party or parties, and any party or parties who may assume or guarantee any such contract or obligation, shall be bound for such rate of interest as is expressed in any such contract, obligation, assumption, or guaranty, and no law of this state prescribing or limiting interest rates shall apply to any such agreement or to any charges which pertain thereto or in connection therewith[.] ; *provided, however, nothing herein contained shall be construed to amend, repeal, or abrogate any other law of this state pertaining to any particular types of transactions for which the maximum rate of interest is specifically prescribed or provided.*

(2) Any state or national bank may charge ten dollars for any loan negotiated at the bank in this state, even if the legal interest does not amount to that sum.

The Committee on Highways and Traffic Safety reported **HB 42**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Substitute to **HB 42** is as follows:

HB 42, AN ACT relating to motor vehicle operator licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 186 is created to read as follows:

On and after the effective date of this Act and when the records of the Department of Transportation disclose that any person has been convicted under the traffic laws of this state, or a valid municipal or county ordinance paralleling and substantially conforming to a like state law, of an offense occurring on or after the effective date of this Act, which record of conviction, when taken with, and added to the previous convictions of such person of offenses occurring within five years prior to the date of such offense, as contained in the files of the Department of Transportation, shall reveal that said person is an habitual violator, as hereinafter defined, the Secretary of the Department of Transportation shall forthwith certify to the county attorney of the county in which such person resides according to the records of the department, a full and complete abstract of the person's driving record as shown in the files of the department. The provisions of this section shall apply only to offenses and records of offenses committed after the effective date of this Act. These provisions shall have no retroactive effective before the effective date of this Act.

Section 2. A new section of KRS Chapter 186 is created to read as follows:

An habitual violator shall be construed to mean any person, resident or nonresident, who has been convicted in this state or elsewhere:

(1) Three or more times of voluntary or involuntary manslaughter occurring on separate dates and resulting from the operation of a motor vehicle; or

(2) Three or more times of violating the provisions of KRS Chapter 189 relating to the operation of vehicles while under the influence of a controlled substance or intoxicating liquors, or violating the law of any other state, or a valid municipal or county ordinance, substantially conforming to or paralleling said section; or

(3) Three or more times of operating a vehicle, after forfeiture of his operator's or chauffeur's license, and during the time for which he is deprived of his right so to do, under the provisions of any law of this state, or of any other state, or a valid municipal or county ordinance, substantially conforming to or paralleling the laws of Kentucky; or

(4) Three or more times of perjury or the making of three or more false affidavits or any combination of three of these offenses to the Department of Transportation or under any other law of the state requiring the registration of motor vehicles or regulating their operation on highways, or the making of a false statement to the department on any application for an operator's or chauffeur's license; or

(5) Three or more times of any crime punishable as a felony under the motor vehicles and traffic laws of Kentucky or any other felony in the commission of which a motor vehicle is used; or

(6) Three or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in damage to property of another in excess of \$200; or

(7) Three or more times of failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in the death of, or injury to, another person; or

(8) Three or more times, singularly or in combination, of any of the offenses hereinabove described in subsections (1) through (7) of this section; or

(9) Fifteen or more times of moving traffic offenses, excluding speeding in other states and excluding offenses wherein the defendant or violator has not been convicted of operating his vehicle more than 10 miles per hour in excess of the applicable speed limit, which offenses have been committed during separate and unrelated incidents, including those covered in subsections (1) through (8) of this section, or in the law of any other state, or in a valid municipal or county ordinance, substantially conforming to or paralleling a similar law of Kentucky, which offenses are required to be reported to the Department of Transportation, and the commission of which offenses, singularly or in combination with any other offense or offenses, statutorily requires the suspension or revocation of the license or privilege to operate motor vehicles by the department, or the commission of which offenses singly or in combination with any other offense or offenses, authorizes a court to impose such suspension or revocation for a period of more than, or less than, one year.

Section 3. A new section of KRS Chapter 186 is created to read as follows:

The county attorney, upon receiving from the Secretary of the Department of Transportation the abstract of record shall forthwith file information against the accused person in the court of record having jurisdiction of criminal offenses in the political subdivision in which such person resides.

Section 4. A new section of KRS Chapter 186 is created to read as follows:

The court in which such information is filed shall enter an order directed to the person accused of being "an habitual violator" of the motor vehicle laws to show cause why he should not be barred from operating a motor vehicle in the State of Kentucky. If the court cannot, on the evidence available, make a determination as to the existence of any record of prior conviction, or if the court is not satisfied that the accused is the same person named in the records, or both, the court may certify such question for hearing and determination to the court in which such conviction was had. A court in this state to whom such certification is made shall forthwith conduct a hearing and make a finding of fact and determination of the existence of any record of prior conviction and the identity of the person, and send a certified copy of its order to the court before whom the information alleging the person to be "an habitual violator" is pending. The provisions of this section shall not be binding upon an out-of-state court; however, any court in this state may request any out-of-state court to voluntarily provide the information sought pursuant to this section.

Section 5. A new section of KRS Chapter 186 is created to read as follows:

If the court finds that such accused person is not the same person as the accused named in such records, or that his convictions are not such as to constitute him "an habitual violator" under this Act, the information shall be dismissed; but if the court finds that the accused is the same person named in the records certified by the Secretary, the court shall, except for good cause shown, find such person guilty of being "an habitual violator" of the motor vehicle and traffic laws of Kentucky as set forth herein, and shall, by appropriate order, direct such person not to operate a motor vehicle on the public highways of the State of Kentucky. The clerk of the court shall file with the Department of Transportation a copy of the order of the court which shall

become a part of the permanent records of the department.

Section 6. A new section of KRS Chapter 186 is created to read as follows:

No license to operate motor vehicles in Kentucky shall be issued to a convicted habitual violator:

(1) For a period of five years from the date of the order of the court finding such person to be "an habitual violator," wherein the convictions relate to the offenses listed in subsections (1) and (2) of Section 2 of this Act, and

(2) For a period of two years from the date of the order of the court finding such person to be "an habitual violator," for any offense other than those for which a penalty is provided in subsection (1) of this section, and

(3) Until the privilege of such person to operate a motor vehicle has been restored by an order of a court of record entered in a proceeding hereinafter provided.

Section 7. A new section of KRS Chapter 186 is created to read as follows:

At the expiration of two or five years, as the case may be, from the date of any final order of the court entered under the provisions of this Act, finding a person to be "an habitual violator" and directing him not to operate a motor vehicle in this state, such person may petition the court in which he was convicted of being "an habitual violator" or any court of record in Kentucky having criminal jurisdiction in the political subdivision in which such person then resides to have his privilege to operate a motor vehicle restored. And upon such petition, and for good cause shown, the court may, in its discretion, restore the privilege of such person to operate a motor vehicle upon such terms and conditions as the court may prescribe, subject to other provisions of law relating to the issuance of operator's or chauffeur's licenses.

Section 8. A new section of KRS Chapter 186 is created to read as follows:

An appeal may be had from any final action or order of a court of record entered under the provisions of this Act in the same manner and form as such an appeal would be noted, perfected and tried in an appropriate criminal case before such court of record.

Section 9. A new section of KRS Chapter 186 is created to read as follows:

Nothing in this Act shall be construed as amending, modifying or repealing any existing law of Kentucky, or any existing ordinance of any political subdivision, regulating the operating and licensing of motor vehicles, and providing penalties for the violation thereof; or construed so as to preclude the exercise of the regulatory powers of any division, agency, department or political subdivision of the State of Kentucky having the statutory power to regulate the operation and licensing of motor vehicles.

Section 10. A new section of KRS Chapter 186 is created to read as follows:

It shall be unlawful for any person to operate any motor vehicle in this state while the order of the court prohibiting such operation remains in effect. Any person found to be "an habitual violator" under the provisions of this Act who is thereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operating is in effect, shall, upon such conviction, be punished by confinement not to exceed twelve months.

The Committee on Highways and Traffic Safety reported **HB 340** with Committee Amendment attached thereto, **HR 36** and **SB 14** with the expression of opinion that the same should pass. Read as length for the first time and ordered placed in the Calendar.

HB 340, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:

It shall be unlawful to operate a motor vehicle whose passenger compartment, or any other space accessible to the driver and passengers when vehicle is in motion, has within it any alcoholic beverage in a container which has been opened, or whose contents are at a lower level than when originally filled. This provision shall not apply to such opened containers which are in the vehicle trunk or other area beyond access to the driver and passengers when the vehicle is in motion.

Section 2. A new section of KRS Chapter 189 is created to read as follows:

Violation of this Act shall be punishable, for the first offense, by a fine of \$100, or thirty days in jail, or both; and for subsequent offenses, by a fine of \$100, or thirty days in jail, or both, and revocation of operator's license for one year.

The Committee Amendment to **HB 340** is as follows:

Amend printed copy of House Bill 340 page 1, line 3, by inserting after the word "to" the word "knowingly"

and on page 1, lines 14 through 18, by striking out lines 14 through 18 in their entirety and substituting therefore the following:

"Violation of this Act shall be punishable by a fine of from \$10 to \$100, or up to thirty days in jail, or both. Any occupant of a motor vehicle, other than the driver, who violates this Act shall be subject to the same penalties."

HR 36, A RESOLUTION directing appointment of a special committee to inquire into the authority and activities of the Kentucky Turnpike Authority.

WHEREAS, when the Kentucky Turnpike Authority was created by an Act of the 1960 General Assembly (KRS Chapter 175), it was empowered to borrow money and to construct toll turnpikes by issuing revenue bonds; and

WHEREAS, the Department of Highways is required by said Act to pay for the maintenance of said toll roads, including the cost of toll-collection facilities, out of its tax revenues not otherwise obligated; and

WHEREAS, the Department of Highways leases the toll roads determined to be built by the Kentucky Turnpike Authority, and is required by said Act to pay rentals sufficient to amortize the bonded debt by using tax revenues available to it in the event toll collections are insufficient; and

WHEREAS, this Act appears to confer upon the Kentucky Turnpike Authority the power to incur public debt and to obligate public tax funds without a vote of the people, or further authorization by the General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. A special committee to inquire into activities of the Kentucky Turnpike Authority shall be appointed as follows: one or more members of the House Committee on Appropriations and Revenue chosen by the chairman of said committee, one or more members of the House Committee on Highways and Traffic Safety chosen by the chairman of said committee, and one member of the staff of the Legislative Research Commission who has expertise in the area of fiscal affairs to be chosen by the Legislative Research Commission.

Section 2. The special committee shall meet as soon as is practicable, choose its chairman, and begin its inquiry.

Section 3. The special committee shall report its findings and recommendations to the 1974 General Assembly no later than March 1, 1974, if possible, or to the 1976 General Assembly.

SB 14, AN ACT relating to traffic regulations in school zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.336 is amended to read as follows:

(1) Fiscal courts, with respect to school zones situated in unincorporated areas, may authorize by resolution installation at county expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(2) Cities, with respect to school zones within their incorporated areas, may authorize by ordinance installation at city expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(3)[(1)] The speed limit on all highways where school flasher lights are in operation shall be twenty-five (25) miles per hour. Flasher lights shall be placed one-eighth (1/8) of a mile on each side of the principal school building where practical. The government unit where the lights are in operation shall erect signs notifying motorists of the speed limit.

(4)[(2)] "Highways" as used in this section shall mean any public road or street maintained by a city, county or the state.

(5) *Any traffic control devices erected by any governmental unit shall conform to standards and specifications authorized by KRS 189.337.*

[(3) Each governmental unit which erects signs notifying motorists of the speed limit shall pay for such signs from appropriate funds.]

The Committee on Judiciary reported **HB 12** with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Judiciary reported **HB 93, HB 303, HB 313, HB 322, HB 330, HB 333** with Committee Amendment attached thereto, and **SB 9** with the expression of opinion that the same should pass. Read as length for the first time and ordered placed in the Calendar.

HB 93, AN ACT relating to inheritance and estate taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.090 is amended to read as follows:

In calculating the value of the distributive shares the following deductions and no others shall be allowed:

- (a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the statute of limitations;
- (b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky;
- (c) Death duties paid to foreign countries;
- (d) Federal estate taxes, in the proportion which the net estate in Kentucky subject to federal estate taxes bears to the total net estate everywhere subject to federal estate taxes; all calculations are subject to approval by the department of revenue;
- (e) Drainage, street or other special assessments due and unpaid which are a lien on said property;
- (f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total *twenty-five* [sixteen] hundred dollars (\$2,500) [(\$1,600)];
- (g) Commission of executors and administrators in the amount actually allowed and paid;
- (h) Cost of administration, including attorney's fees actually allowed and paid.

HB 303, AN ACT relating to hunting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.991 is amended to read as follows:

(1) Any person who enters upon the *enclosed* [inclosed] lands of another to shoot, hunt or fish without the oral or written consent of the owner or occupant shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100).

(2) *Any person who enters upon the enclosed lands of another to shoot or hunt with a rifle chambered for center fire cartridges without first obtaining the written consent of the owner or occupant shall be fined not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100). This subsection shall not apply to unoccupied land.*

HB 313, AN ACT relating to labor relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.130 is amended to read as follows:

(1) Employees may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate

the terms and conditions of their employment to effectively promote their own rights and general welfare. Employees, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither employers or their agents nor employees or associations, organizations or groups of employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.

(3) *The employees and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) without a hearing first being held and findings made pursuant to the Rules of Civil Procedure in the Commonwealth of Kentucky relating to motions for a temporary injunction.*

HB 322, AN ACT relating to bail bondsmen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 425 is created to read as follows:

(1) With the exception of felony arrests made upon probable cause pursuant to KRS 431.005 (2), bail bondsmen shall not make arrests and shall apply for an arrest warrant before the appropriate judicial official in order to obtain the arrest of any person.

(2) The restrictions contained in subsection (1) shall apply notwithstanding any language to the contrary in contracts or other agreements.

(3) Any person who violates the provisions of this section shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not more than twelve (12) months, or both.

Section 2. KRS 425.080 is repealed.

HB 330, AN ACT relating to arrest and court records in certain criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

A new section of KRS Chapter 431 is created to read as follows:

(1) Whenever any charge in a criminal case, in any court of this Commonwealth, has been filed away with or without leave to reopen and twelve months have elapsed since such court action or a person has been found not guilty by a judge or jury the records of such case shall no longer be public records.

(2) Any record of such arrest kept by any consumer reporting agency or employer shall be purged from his files after the time or decision stated in subsection (1).

(3) No employer in this Commonwealth shall ask on any employment application whether an applicant has been arrested for any offense, but may only ask the offenses of which he has been convicted.

(4) Any violation of subsections (1), (2) or (3) shall be subject to a fine of not more than two hundred dollars (\$200) for each offense and the court may order the defendant to pay an amount of not more than two hundred dollars (\$200) to any applicant so aggrieved.

HB 333, AN ACT relating to wills and estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 394 is created to read as follows:

Self-Proved Will. An attested will may, at the time of its execution or at any subsequent date, be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this State, and evidenced by the officer's certificate, under official seal, attached or annexed to the will in form and content substantially as follows:

THE STATE OF
COUNTY OF

Before me, the undersigned authority, on this day personally
 appeared.....and
 known to me to be the testator and the witness, respectively,
 whose names are signed to the attached or foregoing instrument
 and, all of these persons being by me first duly
 sworn

the testator, declared to me and to the witnesses in
 my presence that the instrument is his last will and
 that he had willingly signed or directed another to
 sign for him, and that he executed it as his free and
 voluntary act for the purposes therein expressed;
 and each of the witnesses stated to me, in the presence
 and hearing of the testator, that he signed the will
 as witness and that to the best of his knowledge the
 testator was eighteen years of age or over, of sound
 mind and under no constraint or undue influence.

 estator

Witness _____

Witness _____

Subscribed, sworn and acknowledged before me by
 _____, the testator, subscribed and sworn
 before me by _____ and _____,
 witnesses, this _____ day of _____, A.D., _____.

(OFFICIAL CAPACITY OF OFFICER)

A self-proved will may be admitted to probate without the testimony of any subscribing witness, but otherwise treated no differently from a will not self-proved.

Section 2. KRS 427.060 is amended to read as follows:

In addition to any exemption of personal property, land, including the dwelling house and appurtenances, not exceeding *twenty-five hundred* [one thousand] dollars in value, owned by any bona fide housekeeper with a family resident in this state, is exempt from sale under execution, attachment or judgment, except to foreclose a mortgage given by the owner of a homestead or for purchase money due thereon. This exemption shall not apply if the debt or liability existed prior to the purchase of the land or the erection of the improvements thereon.

Section 3. KRS 391.030 is amended to read as follows:

(1) Where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.
 (b) An alien may be distributee as though he were a citizen.
 (c) Personal property or money on hand or in bank to the amount of \$3,500 shall be exempt from distribution and sale and shall be set apart by the county court having jurisdiction over the estate on application to *the* [his] surviving spouse [and infant children], or, if there is no surviving spouse, to *the* [his] infant children surviving [him].

(2) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the county court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding \$500 belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the clerk of the county court, and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(3) In the application for the setting apart of property or money under this section the surviving spouse may make his selection out of the *personal* property of the estate to the extent that the value of the property selected does not exceed the amount of \$3,500.

[(4) This section applies to cases where the husband or wife dies testate and the surviving spouse renounces the provisions of the will as provided by KRS 392.080.]

Section 4. KRS 394.080 is amended to read as follows:

No will or codicil, or any part thereof, shall be revoked, except:

- (1) As provided in KRS 394.090 and 394.095;
- (2) By subsequent will or codicil;
- (3) By some writing declaring an intention to revoke the will or codicil, and executed in the manner in which a will is required to be executed; or
- (4) By the person who made the will, or some person in his presence and by his direction, cutting, tearing, burning, obliterating, canceling, or destroying the will or codicil, or the signature thereto, with the intent to revoke.

Section 5. A new section of KRS Chapter 386 is created to read as follows:

(1) Whenever a trustee holds and controls an amount, exclusive of income, of \$2,000 or less, it may petition the county court having jurisdiction of said trust, for an order authorizing it to distribute the amount held, plus income available, less fees chargeable, to the appropriate beneficiary or beneficiaries, legal representatives thereof, or other appropriate persons or institutions responsible for the object of the trust, who shall be under a duty to use the funds for the purposes of the trust. Upon receipt of said petition by the county court, it may grant such petition if it is satisfied by affidavit or oral testimony that the circumstances so warrant, and order the amount distributed.

(2) When an order to distribute the amount petitioned is granted and entered into the court's records, no bond shall be required of the recipient of said distribution from the trustee.

(3) A release of the trustee shall be executed by the recipient upon distribution of the amount held, declaring said fiduciary not liable thereafter. The trustee shall not be required to look into the application of the amount so distributed.

Section 6. KRS 413.180 is amended to read as follows:

(1) If a person entitled to bring any action mentioned in KRS 413.090 to 413.160 dies before the expiration of the time limited for its commencement and the cause of action survives, the action may be brought by his *personal* representative after the expiration of that time, if commenced within one year after the qualification of the representative.

(2) If a person dies before the time at which the right to bring any action mentioned in KRS 413.090 to 413.160 would have accrued to him if he had continued alive, and there is an interval of more than *one year* [three years] between his death and the qualification of his personal representative, that representative, for purposes of this chapter, shall be deemed to have qualified on the last day of the *one* [three]-year period.

(3) If a person against whom an action mentioned in KRS 413.090 to 413.160 may be brought dies before the expiration of the time limited for its commencement and the cause of action survives, an action may be commenced against his personal representative, devisee, or heirs, or all, after the expiration of that time, and within one year after the qualification of his personal representative. If there is no personal representative, the action may be brought against his heirs or devisees, or both, after the expiration of the time limited for bringing it, and within *one year* [two years] after his death.

Section 7. KRS 413.200 is amended to read as follows:

No action against a personal representative who has settled his accounts and made distribution of the whole assets in his hands, on any judgment or decree against his testator or intestate, or on any contract made by him, shall be brought after the expiration of *one year* [seven years] after the *order of discharge of the representative* [qualification of the representative].

Section 8. KRS 413.210 is amended to read as follows:

No action upon a cause which accrued against a deceased person in his lifetime shall, when his estate has been distributed and divided, be brought against his heirs or devisees jointly with his personal representative after the expiration of *two* [seven] years from *the date of the order of discharge of the representative* [his death].

Section 9. KRS 413.230 is amended to read as follows:

A surety for an executor, administrator, guardian or curator, or for a sheriff to whom a decedent's estate has been transferred, shall be discharged from all liability to a distributee, devisee or ward when *two* [five] years have elapsed without suit after the cause of action accrued, and after the devisee, distributee or ward attained full age. But the failure of one to commence action in time shall not affect the right of another.

Section 10. KRS 394.250 is amended to read as follows:

An appeal to the circuit court from an order of a county court, admitting a will to record or rejecting it, shall not, unless taken within twelve months from the entry of the county court's order, prevent the appointment of an administrator or executor by the county court or the settlement, distribution, and division of the decedent's estate. The circuit court in which proceedings are pending in appeal may make an order restraining the further distribution and division of the estate. *Should such a restraining order be made, the court may in its discretion require the appellants to give bond as required by the rules of civil procedure concerning injunctive relief in civil actions generally. Such an order shall not restrain administration of the*

estate other than as set out in the order.

Section 11. KRS 394.240 is amended to read as follows:

(1) An appeal may be taken from the county court to the circuit court of the same county from every judgment admitting a will to record or rejecting it. The circuit court shall try both law and fact, unless a jury be requested. The appeal to the circuit court shall be within two years after rendering the judgment of probate or rejection in the county court. The propounder of the will shall have the right to conclude the argument in the circuit court. This section shall apply only to wills offered for probate after June 16, 1972.

(2) *Upon filing an appeal to the circuit court from an order of a county court admitting a will to record or rejecting it, and upon filing an appeal to or an action in a circuit court seeking construction, interpretation or reformation of a will, the appellant or plaintiff shall forthwith lodge a notice of the appeal or action in the office of the county court clerk of the county in which the will was admitted to probate or rejected. Such notice shall state the name of the testator, the style of the appeal or action, the court in which the appeal or action has been filed, the file number assigned to the appeal or action by the clerk of the court in which it has been filed, the nature of the appeal or action, and the date on which the appeal was filed or the action commenced. Said notice shall be signed by appellant or plaintiff or his attorney and no jurat shall be necessary. The county court clerk shall record and index said notice as if it were a will.*

Section 12. A new section of KRS Chapter 395 is created to read as follows:

(1) Where the exemption of the surviving spouse alone, or together with preferred claims paid by a widow or by the widower where the wife's estate is legally liable for payment, equals or exceeds the amount of probatable assets, the court may order that administration of the estate be dispensed with and such assets be transferred to the surviving spouse or to a person designated by such surviving spouse to receive all or part of such assets. The court may so order in both testate and intestate estates and without requiring the renunciation of a will or the giving of bond.

(2) If the court is satisfied that no probatable estate will pass through the hands of the personal representative, it may order that no letters of administration be issued and that the will be probated only.

(3) Where a surviving spouse has waived his or her right to the exemption accorded by law in favor of a person who has paid preferred claims in an amount equalling or exceeding the amount of probatable assets or who is legally entitled to such payment, or where there is no surviving spouse and such person has made such payment or is legally entitled thereto, the court may order that the administration of the estate be dispensed with and such assets transferred to such person. The court may so order without requiring the giving of bond.

(4) For purpose of this section, the exemption of the surviving spouse is such exemption as has been created by KRS 391.030 and preferred claims are those listed in KRS 396.090 and in the order thereof.

Section 13. KRS 394.500 is amended to read as follows:

Unless a contrary intention appears from the will, real or personal estate, comprised in a devise or bequest incapable of taking effect, shall [not] be included in the residuary devise contained in the will[, but shall pass as in case of intestacy].

Section 14. A new section of KRS Chapter 391 is created to read as follows:

(1) If

(a) A devise, bequest, or conveyance of real or personal property is made by written instrument free of any trust; and

(b) By the express terms of the instrument or by rule of law the devise, bequest or conveyance is made to a life tenant with power to consume principal or invade corpus, with the remainder to another upon the death of the life tenant; and

(c) The instrument does not expressly state the purpose for or the extent to which the life tenant may consume principal or invade corpus, then the provisions of subsection (2) shall apply.

(2) The life tenant's power to consume principal or invade corpus shall be limited to such consumption or invasion as shall be necessary for his health, education (including college and professional education), and support in his accustomed manner of living.

(3) If

(a) A devise, bequest, or conveyance of real or personal property is made in trust by written instrument; and

(b) By the express terms of the trust instrument or by rule of law the devise, bequest or conveyance is made for the benefit of a tenant for life with power in the trustee to consume principal or invade corpus for the benefit of the life tenant, with remainder to another upon the death of the life tenant; and

(c) The instrument does not expressly state the purpose for or the extent to which the trustee may consume principal or invade corpus for the benefit of the life tenant, then the provisions of subsection (4) shall apply.

(4) The trustee's power to consume principal or invade corpus for the benefit of the life tenant shall be limited to such consumption or invasion as shall be necessary for his health, education (including college and professional education), and support in his accustomed manner of living.

Section 15. KRS 392.140 is amended to read as follows:

Whenever a married *person* [woman] has become a confirmed lunatic, the circuit court of the county in which is situated land belonging to the *spouse* [husband] of such married *person* [woman] may, upon the petition of the *spouse* [her husband], adjudge the sale and conveyance, or the mortgage, of the inchoate right of dower of the married *person* [woman]. The *lunatic* [wife] and *his* [her] committee, if *he* [she] has one, shall be made defendants to the action; if *he* [she] has no committee, the court shall appoint an attorney to defend for *him* [her], to whom the court shall make a reasonable allowance to be paid by the *spouse* [husband]. A description of the land shall be given in the petition and the *spouse's* [husband's] evidence of title filed therewith. If the court is satisfied by the proof that the *person* [wife] is a confirmed lunatic, it may adjudge the sale and conveyance, or mortgage, of *his* [her] inchoate right of dower in said land, and if *he* [she] has a committee, the court may direct that he unite with the *spouse* [husband] in the deed or mortgage; if *he* [she] has no committee, the court shall appoint a commissioner who shall unite with the *spouse* [husband] in the deed or mortgage. Before any judgment pursuant to this section shall be rendered, the *spouse* [husband], with at least two good sureties, shall execute before the court a covenant to the Commonwealth for the benefit of the *confirmed lunatic* [wife], to be approved by the court, that *he* [she] will be paid the value of *his* [her] right of dower in the land should such right thereafter become complete.

Section 16. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Attorney" means attorney at law;
- (3) "Bequeath" and "devise" mean the same thing;
- (4) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (5) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;
- (6) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;
- (7) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;
- (8) "Directors," when applied to corporations, includes managers or trustees;
- (9) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;
- (10) "Federal" refers to the United States;
- (11) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;
- (12) "Issue," as applied to the descent of real estate *or personal property*, includes all the lawful lineal descendants of the ancestors;
- (13) "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (14) "Legatee" and "devisee" convey the same idea;
- (15) "Magistrate" includes county judge, police judge and justice of the peace;
- (16) "May" is permissive;
- (17) "Month" means calendar month;
- (18) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (19) "Peace officer" includes sheriffs, constables, coroners, jailers, marshals, policemen and other persons with similar authority to make arrests;
- (20) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (21) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;
- (22) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (23) "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected;
- (24) "Shall" is mandatory;
- (25) "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;
- (26) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (27) "United States" includes territories, outlying possessions and the District of Columbia;
- (28) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time

appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

- (29) "Violate" includes failure to comply with;
- (30) "Will" includes codicils; "last will" means last will and testament;
- (31) "Year" means calendar year; and
- (32) "City" includes town.

Section 17. KRS 401.020 is amended to read as follows:

The father, or if he is dead or has abandoned his child who is under the age of eighteen, the mother [and guardian], or if no mother is living, the guardian [alone], may have the name of a child under the age of eighteen changed by the county court of the county in which the child resides. If the child resides on a United States army post, military reservation or fort his name may be changed by the county court of any county adjacent thereto.

Section 18. KRS 395.015 is amended to read as follows:

(1) Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application under oath, which must state the names of the deceased's surviving spouse and all of his heirs-at-law or such as are known, their post-office address if known, the date of death and also a statement in general terms as to what the estate consists of and the probable value of the personal and real estate and also a statement of any indebtedness owing by the applicant to the deceased. The foregoing requirement in respect to names and addresses of heirs-at-law may be omitted when the application is being made by the executor named in the will [or administrator with will annexed,] unless requested by the court. The application of a nonresident shall include the designation of a resident of the county where administration is pending as his agent for the service of process in any action against him as personal representative or personally, provided that such personal action must have accrued in the administration of the estate. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky.

(2) In the case of intestacy, *or where an administrator with will annexed or de bonis non is to be appointed*, if there be no surviving spouse, or if such spouse waives the right of appointment or is not qualified to act and does not nominate a suitable administrator and there is more than one resident heir-at-law entitled to appointment, the court shall thereupon *set* [appoint] a time for hearing such application. Notice of said hearing shall be given to the surviving spouse and all known heirs of the deceased residing in the state, *or elsewhere*, in the manner provided in KRS 395.016.

(3) A fee of five dollars shall be allowed the court for its appointment of an administrator or curator.

Section 19. KRS 395.040 is amended to read as follows:

(1) The court shall grant administration to the relations of the deceased who apply for administration, preferring the surviving husband or wife, and then such others as are next entitled to distribution, or one or more of them whom the court judges will best manage the estate.

(2) If no person mentioned in subsection (1) applies for administration *within 60 days* [at the second county court] from the death of an intestate, the court may grant administration to a creditor, or to any other person, in its discretion.

(3) No master *or* [of] other commissioner whose duty it is to settle the accounts of a personal representative shall be appointed an administrator.

(4) If a will is afterwards produced and proved, the administration shall cease, and the court may grant a certificate of the probate of the will, or, in the proper case, letters of administration with the will annexed.

Section 20. KRS 395.160 is amended to read as follows:

(1) If a personal representative *moves* [resides] out of the state *and fails to designate a process agent as required by KRS 395.015 (1)*, becomes insane or otherwise incapable to discharge the trust, goes bankrupt or insolvent or is in failing circumstances, the county court shall remove him, and the other personal representative, if there is another, shall discharge the trust. If he resides in the county of his appointment or in an adjoining county, and is not insane, he shall have ten days' notice before the order of removal is made. If he is insane, the notice shall be given to his committee, if he has one, and if there is no committee, the court may appoint one.

(2) The county court may remove a personal representative for failing to give additional security when required under KRS 62.060 and appoint another.

(3) The court shall require a personal representative who is removed to settle his accounts, and deliver over the decedent's estate to the person appointed in his stead.

Section 21. A new section of KRS Chapter 395 is created to read as follows:

An application to revive an action in the name of the representative or successor of a plaintiff, or against the representative or successor of a defendant, shall be made within one year after the death of a deceased party.

Section 22. KRS 395.535 is amended to read as follows:

Creditors failing to appear and prove their claims, *pursuant* [agreeably] to such order, shall have no claim against the executor or administrator who has actually paid out the estate in expenses of administration, and to creditors, legatees or distributees[.], *and shall have no claim against the legatees or distributees.*

Section 23. A new section of KRS Chapter 396 is created to read as follows:

All claims against a decedent's estate which arose before the death of the decedent, excluding claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless proven as required by law and as follows:

- (1) Within one year after the date of the appointment of the personal representative;
- (2) If no personal representative is appointed, within three years after decedent's death.

Section 24. KRS 395.275; 395.276; 395.277; 395.320; 395.460; 395.540; and 395.545 are hereby repealed.

The Committee Amendment to **HB 333** is as follows:

Amend printed copy of House Bill 333 pages 5 and 6, lines 15 to 26, 1 to 12, to delete the entire Section 5.

Section 6 to become Section 5; Section 7 to become Section 6; Section 8 to become Section 7; Section 9 to become Section 8; Section 10 to become Section 9; Section 11 to become Section 10; Section 12 to become Section 11; Section 13 to become Section 12; Section 14 to become Section 13.

and on pages 13 and 14 lines 13 to 26 and lines 1 to 17 to delete the entire Section 15.

Section 16 to become Section 15; Section 17 to become Section 16; Section 18 to become Section 17; Section 19 to become Section 18; Section 20 to become Section 19; Section 21 to become Section 20; Section 22 to become Section 21; Section 23 to become Section 22; Section 24 to become Section 23.

SB 9, AN ACT relating to small trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 386 is created to read as follows:

(1) Whenever a trustee holds and controls an amount, exclusive of income, of \$2,000 or less, it may petition the county court having jurisdiction of the trust, for an order authorizing it to distribute the amount held, plus income available, less fees chargeable, to the appropriate beneficiary or beneficiaries, legal representatives thereof, or other appropriate persons or institutions responsible for the object of the trust, who shall be under a duty to use the funds for the purposes of the trust. Upon receipt of said petition by the county court, and accompanying affidavit and/or oral testimony, the court shall order the amount distributed.

(2) When an order to distribute the amount petitioned is granted and entered into the Court's records, no bond shall be required of the recipient of said distribution from the trustee.

(3) A release of the trustee shall be executed by the recipient upon distribution of the amount held, declaring said fiduciary not liable thereafter. The trustee shall not be required to look into the application of the amount so distributed.

The Committee on Rules reported **HB 327**, **SB 23** with Committee Amendment attached thereto, **HB 14**, **HB 49** and **HR 29** have been posted for passage in Orders of the Day, February 8, 1974.

The Committee on Rules reported **HB 19** has been recommitted to the Committee on Agriculture and Natural Resources for further study and explanation.

The Committee on Rules reported **HB 95** has been recommitted to the Committee on Judiciary for study on form and legality.

The Committee on Rules reported **HB 212** has been recommitted to the Committee on Highways and Traffic Safety for consideration in light of other legislation on the same subject.

Report on Enrolled Bills

HB 29 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 277, HB 62, HB 69, HB 138, HB 165, HB 210 and HB 278.**

Calendar

HB 384 with Committee Amendment attached thereto, **HB 388, SR 9, HB 331, HB 365, HB 30, HB 217** and **HB 309** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Blythe moved that the rules be suspended for action on a Resolution.

On the roll call the vote was yeas 24-Allen, Blythe, Brewer, Chandler, Davis, DeMarcus, Freeman, Givhan, Guenthner, Holbrook, Hopkins, Karem, Kenton, Kidd, King, Kleier, Mason, McBrayer, McGill, Overstreet, Rattliff, Robinson, Schmaedecke, Schmidt. Nays 52-Arnold, Bennett, Benson, Blandford, Blume, Bruce, Burch, Clapp, Clarke, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Graves, Hancock, Harris, Hellard, Hinkle, Hughes, Hurst, Isler, Kafoglis, Lindsay, Little, May, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Reynolds, Roberts, Romines, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates.

The motion that the rules be suspended was rejected.

Representative Hughes moved that the Legislative Citations be read. Agreed.

Representative Hughes moved the adoption of Legislative Citations No. 35, 36 and 37. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Stephen Alan Fairfax for having achieved the Eagle Scout award as a member of Troop 366 of the Old Kentucky Home Council and commends him for having worked fourteen hours at the Festival of St. Athanasius. This body also commends the Fairfax family for having three sons attain the rank of Eagle Scout at the same time, the first time this has ever occurred in the Old Kentucky Home Council. (Sponsored by Representative Hughes)

The House of Representatives of the Commonwealth of Kentucky hereby honors David William Fairfax for having achieved the Eagle Scout award as a member of Troop 366 of the Old Kentucky Home Council, and commends him for his efforts in gathering sixty-six bushels of trash from the Ohio River Trail, a twenty-one mile stretch. This body also commends the Fairfax family for having three sons attain the rank of Eagle Scout at the same time, the first time this has ever occurred in the Old Kentucky Home Council. (Sponsored by Representative Hughes)

The House of Representatives of the Commonwealth of Kentucky hereby honors Kenneth Joseph Fairfax for having achieved the Eagle Scout award as a member of the Old Kentucky Home Council and commends him for his efforts in registration of voters. This body also commends the Fairfax family for having three sons attain the rank of Eagle Scout at the same time, the first time this has ever occurred in the Old Kentucky Home Council. (Sponsored by Representative Hughes)

Representative Hislope moved that the rules be suspended for the purpose of considering a resolution. Agreed.

Representative Hislope moved the adoption of the following **HR 46**:

HR 46, A RESOLUTION relating to turning on the light.

WHEREAS, if one should enter any of the six great doors of the Capitol Building one could see a lobby, light and gay, and on the other side of an area of darkness, is the Governor's Office filled, flushed and illuminated with an abundance of light; and

WHEREAS, in the Senate and House of Representatives, in order that men may be seen of men, there is no darkness, rather there is an aurora of brightness, streamers and arches of light of fluorescent and incandescent glow, light profusely scattered around and about in refulgent brilliance, light so bright as to exceed that of the noon day sun; and

WHEREAS, and notwithstanding the aforesaid brightly illuminated places there is a dark, cathedral-like gloom in the rotunda of the temple of justice, dark shadows gathering beneath the high Capitol dome, and light, ever so faint and dim sifts down from the six giant sky-lights over the Capitol; and

WHEREAS, the lights in the rotunda are subdued, turned down, dimmed, or turned out, and the only light therein is a faint, feeble soft glow sifting down from heaven through the great Capitol dome; and

WHEREAS, in the rotunda there is not enough light to repel the darkness, and the statue of Abraham Lincoln stands in the shadows in a ghostly, eerie, melancholy, and somber place; and

WHEREAS, because of the darkness, thousands of people who pass through the rotunda cannot recognize the image of Abraham Lincoln, cannot discern his likeness or look upon his face to be reminded of his eternal greatness, his exalted honor and his service to all mankind; and

WHEREAS, let there be light, and lights so be placed as to cast a warm golden glow, a halo around the brow, the head and shoulders of the statue of Abraham Lincoln so that those who pass this way may look upon his face, recognize his image and be reminded of his honor, his greatness, and his service to man;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the membership of the House of Representatives of the Commonwealth of Kentucky strongly urges the powers that be and now are to cause the building superintendent with speed and great dispatch to proceed to turn the lights on the statute of Abraham Lincoln.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kareem, Kenton, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wakins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 5-Clarke, Kafoglis, Nett, Paxton, Stephens.

HR 46 was adopted.

Motions, Petitions and Communications

Representative Blandford moved that **HB 67** be recommitted to the Committee on Agriculture and Natural Resources. Agree.

Representative Loudon requested that his name be added as a co-sponsor of **HB 433**.

Representative Denham requested that his name be added as a co-sponsor of **HB 107**.

Representative Morgan moved that **SB 69** be taken from the Committee on State Government and sent to the Committee on Education.

Representative Karem moved that the motion to take **SB 69** from the Committee on State Government and send it to the Committee on Education be laid on the table.

On the roll the vote was yeas 49-Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, R. Brown, Clarke, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Givhan, Guenther, Hancock, Hellard, Holbrook, Hughes, Hurst, Kafoglis, Karem, Kenton, Kidd, Kleier, Lindsay, May, McBee, McBrayer, McGill, Nett, O'Brien, Pearman, Priddy, Rattliff, Reynolds, Richardson, Romines, Siemens, Stewart, Stone, Thomas, Troop, Vincent, Wells, G. White, Wible. Nays 29-Beshear, Bowles, Bruce, Burch, Chandler, Clapp, DeMarcus, Foster, Gay, Graves, Harris, Hinkle, Holloway, Imes, Isler, King, Lewis, Loudon, Mason, McBride, Morgan, Paxton, Quickert, Stephens, Swinford, Turner, Van Horn, J. White, Whitfield.

The motion that the motion to take **SB 69** from the Committee on State Government and send it to the Committee on Education be laid on the table was adopted.

Representative Hellard requested that his name be added as a co-sponsor of **HB 9**.

Representative Kafoglis filed Floor Amendment No. 2 to **SB 23**.

Representative Holbrook filed Floor Amendment No. 1 to **HB 12**.

Senate Message

Announcing passage of **SB 47, SB 157, HB 113, and HB 248**.

Letter from Clerk of the Senate respectfully requesting the House to return **HB 124** for consideration.

Representative Imes moved that the House comply with the request of the Senate to return **HB 124**.

Representative McBride moved that the motion that the House comply with the request of the Senate to return **HB 124** be laid on the table.

On the roll call the vote was yeas 48-Adams, Allen, Arnold, Bennett, Benson, Blume, Blythe, R. Brown, Chandler, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Hancock, Harris, Hellard, Hislope, Hughes, Hurst, Isler, Karem, Kenton, Kleier, Little, Loudon, Mann, Maynard, McBee, McBride, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Rattliff, Richardson, Roberts, Robinson, Romines, Stephens, Stewart, Vincent, G. White, Wible, Yates. Nays 36-Beshear, Blandford, Bowles, Bruce, Clarke, Dawahare, DeMarcus, Givhan, Guenther, Hardin, Head, Holbrook, Holloway, Hopkins, Imes, Kafoglis, King, Lewis, Mason, May, McBrayer, Morgan, Overstreet, Quickert, Reynolds, Schmaedecke, Schmidt, Sharpe, Stone, Swinford, Thomas, Troop, Turner, Van Horn, J. White, Whitfield.

The motion that the House comply with the request of the Senate to return **HB 124** was tabled.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 124** has been examined and found correctly enrolled. **HB 124** read at length, compared and signed in open session by the Speaker, Ordered delivered to the Senate.

Senate Message

Announcing passage of **SCR 22**.

Orders of the Day

Representative Swinford moved that **HB 41**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Sale moved the adoption of the Committee Amendment to **HB 41**. Agreed.

Representative Sale moved that **HB 41** as amended be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 41 as amended was passed and the title agreed to.

Representative Swinford moved that the rules be suspended for the purpose of considering **SCR 22**.

On the roll call the vote was yeas 83-Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 5-Benson, Blythe, Hancock, Kareem, Van Horn.

The motion that the rules be suspended was adopted.

Representative Swinford moved the adoption of the following **SCR 22**.

SR 22, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives do adjourn on Friday, February 8, 1974, they do so to convene again on Wednesday, February 13, 1974, at a time set by motion upon adjournment.

On the roll call the vote was yeas 78-Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Bowles, Brewer, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Swinford, Turner, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 9-Benson, Blythe, Hancock, Holbrook, Kareem, Kenton, Stephens, Stone, Van Horn.

SCR 22 was adopted.

Announcements

Representative Quickert announced a meeting of the Committee on Judiciary at 9:00 A.M., Friday, February 8, 1974, Room 305.

Representative Clarke announced budget hearings will resume on Friday at 12:30 P.M.

Representative Swinford filed Floor Amendment No. 1 to **HB 356**.

Representative Swinford filed Floor Amendment No. 1 to **HB 389**.

Representative McBride filed Floor Amendment No. 1 to **HR 29**.

Representative McBride filed Floor Amendment No. 2 to **HR 29**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 512, by Representative Kleier: AN ACT relating to public assistance.

HB 513, by Representatives Lewis, Lindsay and Beshear: AN ACT relating to administrative regulations.

HB 514, by Representatives Burch, Donnermeyer, Bennett, Maynard, Priddy and Siemens: AN ACT relating to apprenticeship and training.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 75**.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 A.M., Friday, February 8, 1974.

On the roll call the vote was yeas 78-Adams, Allen, Arnold, Bennett, Beshear, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hughes, Hurst, Imes, Kafoglis, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, J. White, Wible, Yates. Nays 5-Benson, Blythe, Karem, Kenton, Stone.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 8, 1974

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representatives Smith, Watkins and Wible.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Smith, Watkins and Wible.

Representative Hughes moved that the reading of the Journal of February 7, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 515, by Representatives Chandler, Benson, Burch, Bennett, Blythe, Dunn, Guenthner, Harris, Kleier, Maynard, Romines and Siemens: AN ACT relating to emergency medical treatment.

HB 516, by Representative Little: AN ACT relating to financial statements.

HB 517, by Representative Schmidt: AN ACT relating to school taxes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 509**.

Appropriations and Revenue: **HB 504**.

Cities: **SB 157**.

Counties and Special Districts: **HB 503**.

Education: **HR 47**.

Elections and Constitutional Amendments: **HB 508**.

Health and Welfare: **HB 512**.

Highways and Traffic Safety: **HB 505, HB 510**.

Judiciary: **HB 506, HB 507, HB 511**.

Labor and Industry: **HB 514, SB 91, SR 16**.

State Government: **HB 513, HR 49, HR 48, SB 47**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Public Utilities and Transportation: **HB 361, HB 397**.

Business Organizations and Professions: **HB 2, HB 409, HB 418**.

Agriculture and Natural Resources: **HB 9**.

Report of Committees

The Committee on Rules reported **HB 362** with Committee Amendment attached thereto, **HB 247**, **HB 306**, **SB 81**, **HB 388**, **HB 30**, **HB 217**, and **HB 309** have been posted for passage in Orders of the Day, February 13, 1974.

The Committee on Labor reported **HB 50**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Amendment to **HB 50** is as follows:

Amend printed copy of House Bill 50 page 4, line 22 by deleting the words "to interfere"

and on page 4, line 23 by deleting the word "full-time"

and on page 5, lines 5-7 by deleting the phrase "and he shall receive an additional twenty five hundred dollars a year for such services"

and on page 5, lines 18 and 19, by deleting the phrase "shall receive a salary equal to that of Circuit Judges and"

and on page 5, lines 20 and 21, by deleting the words "an executive" on line 20 and deleting the words "director and" on line 21

and on page 5, lines 23-26, by deleting the phrase "fix their compensation and provide for reimbursement of their expenses within the amounts made available therefor by appropriation"

and on page 9, lines 14-21, by deleting subsection (k) in its entirety

and on page 30, line 8, by deleting "State shall pay one-half the"

and on page 30, line 9, by deleting "the remaining one-half of the"

and on page 30, line 10, by deleting the word "cost"

and on page 34, lines 4-11, by deleting Section 21 in its entirety

The Committee on Judiciary reported **HB 103** with Committee Amendment attached thereto, **HB 151**, and **HB 276** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.600 is amended to read as follows:

The governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein *and, upon the enactment of this Act, the Commonwealth of Kentucky shall be deemed a party to the Interstate Compact on Juveniles and shall be deemed to have contracted with each state joining therein, the compact being* [in the form] substantially as follows:

The contracting states solemnly agree:

ARTICLE I

[FINDINGS AND PURPOSES]

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or

absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

ARTICLE II

[EXISTING RIGHTS AND REMEDIES]

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

ARTICLE III

[DEFINITIONS]

That, for the purpose of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

ARTICLE IV

[RETURN OF RUNAWAYS]

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letter of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purpose of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return; and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this article shall be responsible for payment of the transportation cost of such return.

(c) That "juvenile" as used in this article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

ARTICLE V

[RETURN OF ESCAPEES AND ABSCONDERS]

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety days, as will enable his detention under a detention order issued on a requisition pursuant to this article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent

juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this article shall be responsible for payment of the transportation costs of such return.

ARTICLE VI [VOLUNTARY RETURN PROCEDURE]

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provision of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

ARTICLE VII [COOPERATIVE SUPERVISION OF PROBATIONERS AND PAROLEES]

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

ARTICLE VIII
[RESPONSIBILITY FOR COSTS]

(a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

ARTICLE IX
[DETENTION PRACTICES]

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

ARTICLE X
[SUPPLEMENTARY AGREEMENTS]

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

ARTICLE XI
[ACCEPTANCE OF FEDERAL AND OTHER AID]

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

ARTICLE XII
[COMPACT ADMINISTRATORS]

That the Governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XIII
[EXECUTION OF COMPACT]

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

ARTICLE XIV
[RENUNCIATION]

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present article.

ARTICLE XV
[SEVERABILITY]

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the

remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 2. KRS 208.660 is amended to read as follows:

The governor is further authorized and directed to execute, with any other state or states legally joining in the same, an additional article to said compact in the form substantially as follows *and upon enactment of this Act, the Commonwealth of Kentucky shall be deemed a party to the Interstate Compact on Juveniles and shall be deemed to have contracted with each state joining therein:*

That this article shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

For the purposes of this article, "child," as used herein, means any minor within the jurisdictional age limits of any court in the home state.

When any child is brought before a court of a state of which such child is not a resident, and such state is willing to permit such child's return to the home state of such child, such home state, upon being so advised by the state in which such proceeding is pending, shall immediately institute proceedings to determine the residence and jurisdictional facts as to such child in such home state, and upon finding that such child is in fact a resident of said state and subject to the jurisdiction of the court thereof, shall within five (5) days authorize the return of such child to the home state, and to the parent or custodial agency legally authorized to accept such custody in such home state, and at the expense of such home state, to be paid from such funds as such home state may procure, designate, or provide, prompt action being of the essence.

Section 3. KRS 208.990 is amended to read as follows:

[(1) Any person who violates KRS 208.120 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than thirty (30) days, or both.]

[(2) Any person who transports or causes or permits a female child to be transported in violation of subsection (1) of KRS 208.260 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).]

[(3) Any person who violates subsection (2) of KRS 208.260 shall be fined not more than one hundred dollars (\$100).]

[(4) (a) Any adult person who violates subsection (3) of KRS 208.020 shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than twelve (12) months, or both;]

[(b) Instead of the penalty imposed by paragraph (a) of this subsection, the court may suspend the sentence or release the defendant on probation upon his recognizance, with or without sureties. The defendant may be ordered during the effective period of his probation to make his personal appearance in court from time to time, and shall provide and care for the child as directed by the court, and shall further comply with the orders of the court. If the court is satisfied on information or proof under oath that the defendant has violated the terms of the order, it may revoke the order and sentence him under the original order of conviction.]

(1) [(5)] Any person who violates the provisions of KRS 208.020 (4) shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than one (1) year, or both.

(2) [(6)] Any person who violates KRS 208.020 (5) shall, for the first offense, be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300), or imprisoned in the county jail or workhouse not more than ninety (90) days, or both; and for any subsequent offense he shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse for not more than one (1) year, or both.

(3) [(7)] Anyone who violates the provisions of KRS 208.275 shall be subject to a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for a period of not less than 30 days nor more than 6 months or both.

Section 4. KRS 208.670 is repealed.

The Committee Amendment to **HB 103** is as follows:

Amend printed copy of House Bill 103 page 20, lines 17 through 26, inclusive, to delete the same

and on page 21, lines 1 through 26, inclusive, to delete the same

and on page 22, lines 1 through 13, inclusive, to delete the same

and on page 20, line 17, to add the following:

Section 3. Section KRS 208.670 is amended to read as follows:

The governor is further authorized and directed to execute, with any other state or states legally joining in the same, *and upon enactment of this act, the Commonwealth of Kentucky shall be deemed a party to the Interstate Compact on Juveniles and shall be deemed to have contracted with each state joining therein*, an amendment to said compact in the form substantially as follows:

Amendment to the Interstate Compact on Juveniles, Concerning Interstate Rendition of Juveniles Alleged to be Delinquent

(a) This amendment shall provide additional remedies, and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of article V and VI of the interstate compact on juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile charged with being a delinquent by reason of violating any criminal law shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

HB 151, AN ACT relating to the dissolution of nonprofit corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 273.303 is amended to read as follows:

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid and discharged, or adequate provisions shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign *nonprofit* corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in KRS 273.161 to 273.390;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such *nonprofit* [persons,] societies, organizations or domestic or foreign corporations, [whether for profit or nonprofit,] as may be specified in a plan of distribution adopted as provided in KRS 273.161 to 273.390.

HB 276, AN ACT relating to privileged communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 421 is created to read as follows:

Any certified counselor who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state, shall be immune from disclosing in any civil or criminal court

proceeding, without the consent of the counselee, any communication made by the counselee to the counselor in his professional character, or the advice thereon. If the counselee is less than eighteen (18) years of age, neither the communication or advice thereon shall be disclosed in the court proceeding without the consent of the counselee and his parent or legal guardian.

Calendar

HB 128, HB 304, HB 356, HB 359, HB 389, HB 467, HB 340 with Committee Amendment attached thereto, **HR 36, SB 14, HB 93, HB 303, HB 313, HB 322, HB 330, HB 333** with Committee Amendment attached thereto, and **SB 9** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Speaker Blume presiding.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 113** and **HB 248** had been examined and found correctly enrolled. **HB 113** and **HB 248** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 124, HB 113, and HB 248 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Speaker Pro Tempore Paxton presiding.

Motions, Petitions and Communications

The following members requested that their names be added as co-sponsors of bills: Representative Stone, **HB 276**; Representative Blandford, **HB 9**; Representative Stephens, **HB 234**.

Orders of the Day

Representative Swinford moved that consideration of **HB 14** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 49** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Graves moved that **HB 49** be placed upon its passage.

On the roll call the vote was yeas 82 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Yates. Nays 0.

HB 49 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 49** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 327** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Wells moved that **HB 327** be placed upon its passage.

On the roll call the vote was yeas 84 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Marnard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Yates. Nays 0.

HB 327 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 327** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HCR 29** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative McBride moved the adoption of the following Floor Amendment No. 1 to **HCR 29**:

Amend printed copy of House Resolution 29 page 1, lines 2 and 3, by deleting on line 2 the words "call a convention for" and by deleting on line 3 the words "the proposing of" and substituting in lieu of such deleted words, the following: "adopt a resolution submitting";

and on page 1, line 4, by inserting between the word "States" and the colon ":" on said line, the following: "for ratification";

and on page 1, lines 8 through 13, by deleting said lines in their entirety;

and on page 1, line 14, by deleting "3" and inserting in lieu thereof "2".

On the roll call the vote as yeas 63 - Allen, Arnold, Benson, Blandford, Blume, Blythe, Brewer, Bruce, Chandler, Crupper, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Harris, Head, Hellard, Holbrook, Hopkins, Imes, Isler, Kafoglis, Karem, Kenton, King, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Overstreet, Paxton, Quickert, Reynolds, Richardson, Roberts, Robinson, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Wells, G. White, J. White, Whitfield. Nays 21 - Adams, Bennett, Burch, Clapp, Clarke, Guenther, Hardin, Hislope, Holloway, Hughes, Kidd, McGill, O'Brien, Pearman, Priddy, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Yates.

Floor Amendment No. 1 to **HCR 29** was adopted.

Representative Priddy moved that **HCR 29** as amended be placed upon its passage.

Representative Harris moved the Previous Question on **HCR 29**.

On the roll call the vote was yeas 64 - Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Brewer, Chandler, Clapp, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hislope, Hughes, Hurst, Imes, Isler, Kenton, Lewis, Lindsay, Little, Loudon, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Stephens, Stone, Troop, Van Horn, Vincent, Wells, G. White, Whitfield, Yates. Nays 17 - Blythe, Bruce, Burch, Guenther, Holbrook, Holloway, Kafoglis, Karem, Kidd, King, Kleier, Mann, Mason, McGill, Schmidt, Siemens, Swinford.

The Previous Question on **HCR 29** was adopted.

On the roll call the vote was yeas 84 - Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus,

Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Karem, Kenton, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Thomas, Troop, Van Horn, Vincent, Wells, G. White, Whitfield, Yates. Nays 8 -Beshear, Clarke, Graves, Kafoglis, Kidd, McGill, Quickert, Swinford.

HCR 29 as amended was passed.

Representative McBride moved the adoption of the following Title Amendment to **HCR 29**:

Amend printed copy of House Resolution 29 page 1, by amending the title to read as follows:

"A CONCURRENT RESOLUTION petitioning the Congress of the United States to adopt a resolution submitting an amendment to the Constitution of the United States."

Agreed.

Representative McBride moved that the vote by which **HCR 29** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **SB 23**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

Representative Schmaedecke filed Floor Amendment No. 3 to **HB 98**.

Representative Kafoglis filed Floor Amendment No. 3 to **SB 23**.

The following Committee meetings were announced:

Wednesday, February 13, 1974

Education, 12:30, Room 307

Business Organizations and Professions, 1:00, Room 305

Cities, on adjournment, Room 305

Thursday, February 14, 1974

Elections and Constitutional Amendments, 11:00, Room 305A

Labor and Industry, 1:00, Room 307

Appropriations and Revenue, 1:30, Room 305

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 518, by Representatives Romines, O'Brien, Dunn and Little: AN ACT relating to hypodermic syringes and needles.

HB 519, by Representatives Denham and Kenton: AN ACT relating to conveyances and encumbrances.

HB 520, by Representatives Kenton, Hopkins, Graves, Hinkle, Karem, Morgan, Isler, Stephens and Van Horn: AN ACT relating to police and firemen's benefit fund in urban county governments.

Adjournment

Representative Swinford moved that the House adjourn until 2:00 p.m., Wednesday, February 13, 1974.

On the roll call the vote was yeas 73 - Allen, Arnold, Benson, Behsear, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Head, Hellard, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Swinford, Thomas, Troop, Vincent, Wells, G. White, J. White, Whitfield, Yates. Nays 3 - Holbrook, Stone, Van Horn.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 13, 1974

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Williamson Brown, Church of the Ascension, Frankfort.

The roll was called. All present except Representatives E. Brown, Hislope, Overstreet, and Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives E. Brown, Hislope, Overstreet and Turner.

Representative Hughes moved that the reading of the Journal of February 8, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 521, by Representative Hughes: AN ACT relating to consumer protection.

HB 522, by Representatives Hardin, Sharpe, Brewer, R. Brown, Bruce, Dawahare, Freeman, Head, Holbrook, Kafoglis, Little, May, McBrayer, Reynolds, Troop, Turner, and G. White: AN ACT relating to severance taxes.

HB 523, by Representatives O'Brien and Romines: AN ACT relating to emergency vehicles.

HB 524, by Representative Freeman: AN ACT relating to state and federal highways.

HB 525, by Representative Roberts: AN ACT relating to the licensure of attorneys.

HB 526, by Representative Whitfield: AN ACT relating to the information to be recorded on certificates of birth by the Division of Vital Statistics.

HB 527, by Representatives Kenton, Lewis and Quickert: AN ACT relating to unemployment compensation.

HB 528, by Representative Kafoglis: AN ACT relating to the utility gross receipts license tax for schools.

HB 529, by Representatives Quickert, Benson, Karem, Kenton, Kidd, Lewis and McGill: AN ACT relating to civil rights.

HB 530, by Representatives Kenton, Stephens, Hopkins, and Van Horn: AN ACT relating to the powers of the Kentucky State Racing Commission.

HB 531, by Representative McBrayer: AN ACT relating to state legislative districts.

HCR 50, by Representatives Lindsay and Karem: A CONCURRENT RESOLUTION relating to the rights and opportunities of Kentucky Citizens who are visually handicapped and physically disabled.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 517**.

Cities: **HB 520**.

Education: **HB 516**.

Health and Welfare: **HB 518**.

Judiciary: **HB 515**, **HB 519**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **SB 36**.

Counties and Special Districts: **HB 290**, **HB 291**, **HB 485**, **SB 87**.

State Government: **HB 451**, **HB 453**, **HB 466**, **HB 491**, **HB 493**, **HB 513**, **HR 27**, **HR 49**, **SB 47**.

Report of Committees

The Committee on Rules reported **HB 316**, **SJR 9**, **HB 331**, **HB 365**, **HB 12**, **HB 304**, **HB 359**, **SB 14**, and **HB 330** have been posted for passage in Orders of the Day, February 14, 1974.

The Committee on Business Organizations and Professions reported **HB 20** with Committee Substitute attached thereto, **HB 81** with Committee Substitute attached thereto, and **HB 372** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to premises licensed for the retail sale of package liquor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.110 is amended to read as follows:

The entrance doors of any premises for which a retail *package liquor* license has been issued shall be of clear glass. The premises shall be so erected and maintained as to furnish a clear view of the entire premises from the sidewalk[, or, if the premises are not on the street level, from the entrance.] No partition, box, stall, screen, curtain or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons. [Any license to any bona fide hotel or club shall entitle the licensee to serve such alcoholic beverages as it is licensed to sell in a separate room at banquets or dinners or where meals are served.]

The Committee Substitute for **HB 20** is as follows:

HB 20, AN ACT relating to premises licensed for the retail sale of package liquor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.110 is amended to read as follows:

The entrance doors of any premises for which a retail *package liquor* license has been issued shall be of clear glass *or other clear substance*. [The premises shall be so erected and maintained as to furnish a clear view of the entire premises from the sidewalk, or, if the premises are not on the street level, from the entrance. No partition, box, stall, screen, curtain or other device shall obstruct the view or the general observation of persons, but partitions, subdivisions or panels that are not higher than forty-eight (48) inches from the floor shall not be construed as obstructing the view or the general observation of persons.] Any license to any bona fide hotel or club shall entitle the licensee to serve such alcoholic beverages as it is licensed to sell in a separate room at banquets or dinners or where meals are served.

HB 81, AN ACT relating to assumed business names.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.010 is amended to read as follows:

(1) *As used in this Act "person" means any individual, partnership, business trust or corporation.*

(2) [(1)] Except as provided in subsection (3) [(2)] of this section, no person shall carry on, conduct or transact business in this state under an assumed name, or under any designation, name or style, corporate or otherwise, other than his real name, unless such person has filed in the office of the county clerk of each county in which such person intends to conduct or transact such business, *and with the Secretary of State*, a certificate setting forth the name under which the business is to be conducted or transacted, and his full name and post-office address. *A separate certificate shall be filed for each assumed name under which the person intends to conduct or transact business in Kentucky.* The certificate shall be executed and duly acknowledged by each person intending to conduct the business.

(3) [(2)] This section does not apply to corporations, limited partnerships or business trusts, whether foreign or domestic, lawfully doing business in this state under its registered name as filed with the secretary of state, nor does it prevent the lawful use of a partnership name or designation, if the partnership name or designation includes the true name of at least one (1) of the persons transacting business. A corporation conducting or transacting business under an assumed name shall file the *certificates* [certificate] required by subsection (1) except that the corporation *certificates* [certificate] shall be executed by the officer or officers authorized to transfer title to real or tangible personal property of the corporation. The *certificates* [certificate] for the business trust shall be executed by the trustees and the *certificates* [certificate] for a limited partnership shall be executed by a general partner. [In addition, the corporation, limited partnership or business trust shall file with the secretary of state a statement of each assumed name under which it intends to conduct or transact business in Kentucky. For each such statement filed, the secretary of state shall be paid a

fee of \$10.00.]

(4) [(3)] Each county clerk shall keep an alphabetical index of all persons filing certificates under this section, and shall receive a fee of one dollar (\$1.00) [twenty-five cents (25)] for indexing and filing each certificate. A copy of such certificate duly certified by the county clerk in whose office it is filed shall be presumptive evidence in all courts in this state of the facts therein contained.

(5) *The secretary of state shall keep an alphabetical index of all persons filing certificates under this section and shall receive a fee of five dollars (\$5.00) for indexing and filing each certificate. A copy of such certificate duly certified by the Secretary of State shall be presumptive evidence in all courts in this state of the facts therein contained.*

The Committee Substitute for **HB 81** is as follows:

HB 81, AN ACT relating to assumed business names.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.010 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person *or corporation* shall carry on, conduct or transact business in this state under an assumed name, or under any designation, name or style, corporate or otherwise, other than his real name, unless such person has filed in the office of the county clerk of each county in which such person intends to conduct or transact such business; *and if a corporation, also with the Secretary of State*, a certificate setting forth the name under which the business is to be conducted or transacted, and his full name and post-office address. *A separate certificate shall be filed for each assumed name under which the person or corporation intends to conduct or transact business in Kentucky.* The certificate shall be executed and duly acknowledged by each person intending to conduct the business.

(2) This section does not apply to [corporations,] limited partnerships or business trusts, whether foreign or domestic, lawfully doing business in this state under its registered name as filed with the Secretary of State, nor does it prevent the lawful use of a partnership name or designation, if the partnership name or designation includes the true name of at least one of the persons transacting business. A corporation conducting or transacting business under an assumed name shall file the *certificates* [certificate] required by subsection (1) except that the corporation *certificates* [certificate] shall be executed by the officer or officers authorized to transfer title to real or tangible personal property of the corporation. The *certificates* [certificate] for the business trust shall be executed by the trustees and the *certificates* [certificate] limited partnership shall be executed by a general partner. In addition, the corporation, limited partnership or business trust shall file with the Secretary of State a statement of each assumed name under which it intends to conduct or transact business in Kentucky. For each such statement filed, the Secretary of State shall be paid a fee of \$10.00.

(3) Each county clerk shall keep an alphabetical index of all persons filing certificates under this section, and shall receive a fee of *one dollar (\$1)* [twenty-five cents] for indexing and filing each certificate. A copy of such certificate duly certified by the county clerk in whose office it is filed shall be presumptive evidence in all courts in this state of the facts therein contained.

HB 372, AN ACT relating to social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 335 is established and a new section thereof is created to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of this Act is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training and experience for those who seek to engage in the practice of social work.

Section 2. A new section of KRS Chapter 335 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Board" means the State Board of Examiners of Social Work of Kentucky.

(2) "The practice of social work" means the professional activity of helping for remuneration individuals, groups, or communities enhance or restore their capacity for social functioning and create societal conditions favorable to this goal. It includes the professional application of social work values, principles, and techniques to one or more of the following ends: counseling and psychotherapy with individuals, families and groups; helping people obtain tangible services; assisting communities or groups provide or improve social and health services; and engaging in social work education, research, planning and the appropriate administration of social work or social welfare services.

Section 3. A new section of KRS Chapter 335 is created to read as follows:

After one year from the effective date of this Act, except as provided in this Act, no person shall engage in the practice of social work unless he is licensed in accordance with the provisions of this Act, and no person shall hold himself out to the public by any title or description of services representing himself as a "Certified Social Worker", "Social Worker", or any other title that includes such words except as such usage of title or description is authorized by this Act.

Section 4. A new section of KRS Chapter 335 is created to read as follows:

Nothing contained in this Act shall be construed to prevent qualified members of other recognized professions from doing work within the standards and ethics of their respective professions provided they do not hold themselves out to the public by any title or description of services as being engaged in the practice of social work.

Section 5. A new section of KRS Chapter 335 is created to read as follows:

(1) There is hereby created a State Board of Examiners of Social Work of Kentucky which shall consist of seven (7) members appointed by the Governor. Two (2) members shall be, or be eligible to be, Certified Social Workers under the provision of this Act, who shall have rendered service, education or research in social work for at least five years. Two members shall be, or be eligible to be, Social Workers under the provision of this Act, who shall have rendered service in social work for at least two years. Two (2) members shall be, or be eligible to be, Certified Social Workers licensed under the provisions of this Act to engage in the independent practice of social work. One (1) member shall be a citizen at-large. The members shall be appointed from a list of names of qualified persons submitted by any interested parties within ninety (90) days after the effective date of this Act. The Governor may request the submission of additional names.

(2) Initial appointment shall be made as follows: Two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and three (3) members shall be appointed for terms of four (4) years except appointments to fill vacancies caused by a reason other than the expiration of a member's term. Members of the board shall serve until the expiration of the terms for which they have qualified. Upon recommendation of the board, made after notice and hearing, the Governor may remove any member of the board for incompetence, neglect of duty, or malfeasance in office.

(3) Any vacancy shall be filled for the unexpired term by the Governor from a list as described in subsection (1) of this section.

(4) The board shall organize upon appointment and qualification of its members, and shall elect annually from its membership a chairman, vice chairman, and a secretary. The board shall meet in February and in August of each year, and as frequently as it deems necessary at such times and places as the board designates. The additional meetings may be held upon call of the chairman or upon the written request of three (3) members of the board. Four (4) members of the board shall constitute a quorum.

Section 6. A new section of KRS Chapter 335 is created to read as follows:

The members of the board, except the secretary, shall receive no compensation for their services; but may be reimbursed for their reasonable necessary expenses incurred in the performance of their duties. Reimbursement shall not be made if available funds are insufficient for this purpose. If the board decides to compensate the secretary, it shall, in its discretion, fix his compensation.

Section 7. A new section of KRS Chapter 335 is created to read as follows:

(1) The board shall administer and enforce the provisions of this Act, and may adopt rules and regulations consistent with its provisions, including a code of ethical practice for Certified Social Workers and Social Workers.

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation or suspension of a license, shall adopt rules for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provision of this Act, or any rule or regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board shall maintain a register of Certified Social Workers, Social Workers, and licensees certified for private practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

Section 8. A new section of KRS Chapter 335 is created to read as follows:

(1) The board shall issue a license as "Certified Social Worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee fixed by the board, the fee not to exceed twenty-five dollars (\$25);

(e) Has passed an examination prepared by the board;

(f) Has not within the preceeding six months failed to pass an examination given by the board; and

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars (\$30).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by this Act.

Section 9. A new section of KRS Chapter 335 is created to read as follows:

(1) The board shall issue a license as "Social Worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a baccalaureate degree in a social work or social welfare program approved by the board; or a baccalaureate degree in another field, two years experience in a social work capacity and completion of courses equivalent to a social work or social welfare program approved by the board;

(d) Has paid to the board an examination fee fixed by the board, the fee not to exceed ten dollars (\$10);

(e) Has passed an examination prepared by the board;

(f) Has not within the preceeding six months failed to pass an examination given by the board; and

(g) Has paid an initial license fee fixed by the board, the fee not to exceed thirty dollars (\$30).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services an authorized by this Act.

Section 10. A new section of KRS Chapter 335 is created to read as follows:

(1) After one year from the effective date of this Act, no person shall engage in the independent practice of social work unless he meets the following requirements:

(a) Is licensed under this Act as a Certified Social Worker;

(b) Has had a minimum of two (2) years of full time postmaster's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, postmaster's degree experience acceptable to the board in the use of speciality methods and measures to be employed in independent practice, the experience having been acquired under appropriate supervision.

(c) Has paid to the board an examination fee fixed by the board, the fee not to exceed twenty-five dollars (\$25);

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceeding six months failed to pass an examination given by the board.

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of speciality certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of speciality certification shall include "Clinical Social Work" and others as defined by the board. Any use of the titles of speciality certification are restricted to persons so qualified under section 10 of this Act.

Section 11. A new section of KRS Chapter 335 is created to read as follows:

(1) The requirement that an applicant for licensure as Certified Social Worker pass an examination shall be waived from the effective date of this Act for a period of eighteen months. To be licensed without examination during the period an applicant shall meet all of the other requirements set forth in section 8 (1) of this Act, but shall not be required to pay the examination fee.

(2) The requirement that an applicant for licensure as Social Worker pass an examination shall be waived from the effective date of this Act for a period of eighteen months. To be licensed without examination during this period an applicant shall either meet all of the other requirements set forth in section 9 (1) of this Act, except the requirement to pay the examination fee, or provide evidence of employment in a social work capacity for two (2) out of the last four (4) years.

(3) The requirement that an applicant for certificate of qualification for private practice pass an examination shall be waived from the effective date of this Act for a period of eighteen months. To be certified without examination during this period an applicant shall meet all of the other requirements set forth in section 10 (1) of this Act, but shall not be required to pay the examination fee, and the supervision requirement shall be waived.

Section 12. A new section of KRS Chapter 335 is created to read as follows:

The board may grant the appropriate license without examination to any person who at the time of application is licensed in a state which has standards equivalent to those established by the Board of Examiners of Social Work of Kentucky.

Section 13. A new section of KRS Chapter 335 is created to read as follows:

(1) Each Certified Social Worker, Social Worker and licensee holding a certificate of qualification for independent practice shall renew his license or certificate every three (3) years, and shall pay the board a renewal fee not to exceed thirty dollars (\$30) as fixed by the board.

(2) Licensees whose licenses or certificates are renewed by the board shall be issued a renewal license or certificate.

(3) Renewal fees shall be waived for any licensee actually serving in the armed forces of the United States. The waiver shall be effective for six months following honorable discharge, separation, or release from the armed forces, after which period a license or certificate shall be considered lapsed.

(4) The board may, at its discretion, require continuing education as a condition of license renewal.

Section 14. A new section of KRS Chapter 335 is created to read as follows:

All fees and other charges received by the board under this chapter shall be deposited in the state treasury and credited to a separate trust and agency account for the board. The moneys so deposited shall be used to finance the board, and are hereby appropriated to the board. All salaries and expenses shall be paid as budgeted after budgets have been approved by the state budget commission or within the limitations of any appropriation for that purpose which may be included in the General Appropriations Act.

Section 15. A new section of KRS Chapter 335 is created to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of this Act or any rule or regulation promulgated by the board.

(3) The board shall not suspend, revoke or refuse to renew a license except after a hearing held before the board upon notice to the person charged.

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by registered mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oath. The board may invoke the aid of the circuit court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(8) At all hearings before the board the Attorney General of the commonwealth, or one of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) A copy of the board's order shall be sent by registered mail to the person charged at his last known address.

(11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the circuit court for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court. An appeal may be taken from the judgement of the circuit court on any such appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

Section 16. A new section of KRS Chapter 335 is created to read as follows:

When it appears to the board that a person is violating any provision of this Act, the board may institute, in its own name, in a court of competent jurisdiction, a proceeding to restrain and enjoin the violation without regard to whether proceedings have been, or may be instituted under other provisions of this Act. The board or any member thereof, shall not be required to furnish bond for any costs or filing fees in connection with the proceeding.

Section 17. A new section of KRS Chapter 335 is created to read as follows:

Any person who violates any provision of this Act shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or imprisoned for not more than six months, or both.

The Committee Amendment to **HB 372** is as follows:

Amend printed copy of House Bill 372, page 1, between lines 14 and 15, by inserting the following: "(3) Nothing contained in this Act shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the State Board of Education. Nor shall anything in this Act be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the State Board of Education for the position for which they have been employed."

And on page 4, between lines 25 and 26, by inserting the following: "(5) The board shall be attached to the Division of Occupations and Professions in the Executive Department for Finance and Administration pursuant to the provisions of KRS 42.064."

The Committee on Counties and Special Districts reported **HB 97**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.321 is amended to read as follows:

Any legislative body in the planning unit must refer any change to the zoning regulation or official map regulation to the commission for its review before adoption. The commission shall review the proposal, and shall, within sixty (60) days from the date of its receipt, advise the legislative body whether it approves or disapproves of the change, and if it disapproves, state the reasons for disapproval. A majority of the entire membership of the referring legislative body shall be required to override the disapproval by the planning commission. *Whenever the legislative body overrides the disapproval of the planning commission, it shall furnish to the planning commission a written report, setting forth explicitly the reasons for its action. The report shall be published in accordance with the provisions of KRS Chapter 424.*

The Committee Substitute for **HB 97** is as follows:

HB 97, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.321 is amended to read as follows:

Any legislative body in the planning unit must refer any change to the zoning regulation or official map regulation to the commission for its review before adoption. The commission shall review the proposal, and shall, within sixty (60) days from the date of its receipt, advise the legislative body whether it approves or disapproves of the change, and if it disapproves, state the reasons for disapproval. A majority of the entire membership of the referring legislative body shall be required to override the disapproval by the planning commission. *Whenever the legislative body overrides the action of the planning commission, it shall make a written report setting forth explicitly the reasons for its action. The report shall be on file in the office of the legislative body and shall be available to the proponents and opponents of the action upon request.*

The Committee on Education reported **HB 240**, **HB 385**, **HB 413**, **HR 31**, and **HR 38** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 240, AN ACT relating to instruction in child's home or in hospital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.270 is amended to read as follows:

If in any district there are *exceptional* [physically handicapped] children not able even with the help of transportation to be assembled in a school, instruction may be provided in the child's home or in hospitals or sanatoria. *Exceptional* [Physically handicapped] children so instructed may be counted under the provisions of subsection (1) of KRS 157.230, counting, however, a minimum of two (2) visits a week with a minimum of one (1) hour of instruction per visit, by a teacher provided by the board of education as equivalent to the attendance of one (1) child five (5) days in school.

HB 385, AN ACT relating to textbooks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) [On or before July 1, 1954, the] *The* superintendent of public instruction shall *arrange* [classify] the elementary and secondary school subjects included in the state courses of study as prescribed by the state board of education [under seven (7) subject fields as follows: (a) language arts; (b) social studies; (c) science and health; (d) mathematics; (e) fine and practical arts; (f) foreign languages; (g) vocational and business education. The superintendent of public instruction shall arrange the seven (7) subject fields] into *five* (5) [four (4)] adoption groups. The *five* (5) [four (4)] adoption groups shall be arranged as nearly equal in number and purchase cost as possible.

(2) The schedule for the periods of adoption shall be as follows:

Adoptions in group I shall be made in 1975 [1955] and the period of adoption shall be for *five* (5) [four (4)] years;

Adoptions in group II shall be made in 1976 [1955] and the period of adoption shall be for *five* (5) [three (3)] years;

Adoptions in group III shall be made in 1977 [1955] and the period of adoption shall be for *five* (5) [two (2)] years;

Adoptions in group IV shall be made in 1978 [1955] and the period of adoption shall be for *five* (5) [one (1)] years;

Adoptions in Group V shall be made in 1979 and the period of adoption shall be for five (5) years.

[Provided, however, in 1955 not more than one-half (1/2) of the textbooks in use in any subject may be changed with the exception of the subjects in group I in which all textbooks in use shall be adopted; or]

[Provided, further, That the] *The* state textbook commission, by mutual agreement with the textbook publishers now under contract with the state of Kentucky, may extend *any or all subjects under contract or accept bids for less than five (5) years for the purpose of arranging adoption groups with proper subjects and equal size.* [the present contracts as follows:]

[Contracts for all or part of the textbooks in use for the subjects in group IV may be extended for a period of one (1) year;

Contracts for all or part of the textbooks in use for the subjects in group III may be extended for a period of two (2) years;

Contracts for all or part of the textbooks in use for the subjects in group II may be extended for a period of three (3) years.]

[(3) Upon the expiration of the periods of adoption or contract extensions as set in the aforesaid schedule for the periods of adoption and contract extensions in each of the above fields, adoptions shall be made for a period of four (4) years for each adoption group in which textbooks for all the subjects shall be adopted.]

Section 2. KRS 156.405 is amended to read as follows:

(1) The state textbook commission shall consist of the superintendent of public instruction and eight (8) appointive members. The eight (8) members shall be appointed by the state board of education upon the

recommendation of the superintendent of public instruction for terms of four (4) years[,] *with two appointments each year.* [excepting the 1954 appointments. Eight (8) members shall be appointed on or before July 1, 1954 for the following terms: two (2) members for terms of one (1) year; two (2) members for terms of two (2) years; two (2) members for terms of three (3) years; and two (2) members for terms of four (4) years. Beginning with 1955 and each year thereafter, upon the expiration of the terms of the appointees, two (2) members shall be appointed for terms of four (4) years.] All vacancies that occur on the state textbook commission shall be filled in like manner for the remainder of the unexpired terms. [Nothing contained herein shall be construed to affect the tenure of office of persons serving on the state textbook commission on June 19, 1952.]

(2) The appointive members of the state textbook commission shall have had not less than five (5) years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher education. In selecting the members of the state textbook commission the superintendent of public instruction shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made.

(3) Members of the state textbook commission shall serve without remuneration except reimbursement for their actual expenses while attending commission meetings.

(4) The meetings of the state textbook commission shall be open to the public.

(5) Not later than July 15 each year the superintendent of public instruction shall call the state textbook commission into session [at the state capitol]. The members of the state textbook commission shall elect one (1) of its members as chairman and shall adopt rules and regulations for the procedure of the commission. The superintendent of public instruction shall be the secretary of the commission.

Section 3. KRS 156.410 is amended to read as follows:

(1) The superintendent of public instruction shall prepare minimum manufacturing standards and specifications, construct score cards, and formulate other criteria for use in the selection and adoption of textbooks in Kentucky.

(2) It shall be the duty of the superintendent of public instruction to prepare all necessary forms for use in the selection and adoption of textbooks, such as advertising for textbook bids, forms for bids, bonds and contracts, and other forms.

(3) The state board of education, upon the recommendation of the superintendent of public instruction, shall have authority to prescribe (a) rules and regulations pertaining to all textbook samples for use on the state and local levels; and (b) shall have authority to prescribe rules and regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The superintendent of public instruction, on or before *May 1* [July 20] prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the same. The publishers, on or before *July 15* [August 20], of [prior to] any adoption year, shall file with the superintendent of public instruction textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

Section 4. KRS 156.415 is amended to read as follows:

Before textbooks offered for adoption and use in public schools of Kentucky may be lawfully approved and listed by the state textbook commission or purchased by any board of education, the person, firm or corporation offering the books for adoption and use shall file with the superintendent of public instruction:

(1) Copies of all textbooks that the person, firm or corporation desires to offer for adoption and use, with a sworn statement of the list price, the lowest wholesale price and the lowest exchange price *if required by the Kentucky Textbook Commission* at which each of the books is sold in any adopting unit;

(2) A statement that all the books offered for sale, adoption, use and exchange do comply with the standards and specifications for textbooks designated by the superintendent of public instruction as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

(3) Copies of any revision or special editions of the textbooks filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price, the lowest wholesale price and the lowest exchange price at which the revision or special edition is sold anywhere in the United States;

(4) A fee of five dollars (\$5.00) for each book filed except when a series of books is filed, in which case the fee shall be five dollars (\$5.00) for the first book and one dollar (\$1.00) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period;

(5) A bond running to the commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000), to be determined by the superintendent of public instruction.

Section 5. KRS 156.420 is amended to read as follows:

The bond required by the person, firm or corporation offering the books for adoption shall be so conditioned that:

(1) The person, firm or corporation will furnish any of the books listed in the statement filed for the period of adoption from the date of the bond to any school district in Kentucky, or to any dealer appointed by the district, at the lowest wholesale price contained in the statement, f.o.b. the publisher's nearest shipping point;

(2) *The person, firm or corporation shall not bid and enter into a contract for an adoption period with the Commonwealth of Kentucky for books at a higher wholesale price than is being bid for the same adoption period elsewhere in the United States.*

(3)[(2)] The person, firm or corporation will automatically reduce such prices in Kentucky whenever reductions are made anywhere in the United States, so that no such book shall at any time be sold in Kentucky at a higher wholesale price than is received for that book elsewhere in the United States;

(4)[(3)] If the person, firm or corporation prepared an abridged or special edition of any book that has been listed and sells it elsewhere at a lower wholesale price than the wholesale price set out in the filed statement, the person will file a copy of the special edition with the price thereof in a supplemental statement with the superintendent of public instruction;

(5)[(4)] All books sold in Kentucky will be identical with the specimen books filed with the superintendent of public instruction as regards size, paper, binding, print, illustrations, subject matter, and other particulars which may affect the value of the books;

(6)[(5)] The person, firm, or corporation will not enter into any agreement, understanding or combination to control the price of textbooks or to restrict competition in their sale in Kentucky.

Section 6. KRS 156.425 is amended to read as follows:

The form of the sworn statement and bond required shall be prescribed by the *superintendent of public instruction* [attorney general]. The bond shall be in force for the adoption period. The person, firm, or corporation may at any time while the bond is in force file a supplemental statement covering additional books or special editions of books previously filed. The supplemental statement shall expire at the date of expiration of the original statement and bond. Prior to the expiration of any statement and bond the person may file a new statement and bond for a further period of adoption, and if he fails to do so his right to offer textbooks for adoption and use in the public schools of Kentucky shall expire on the date of expiration of the former bond.

Section 7. KRS 156.435 is amended to read as follows:

(1) The state textbook commission shall, not later than *September 20* [October 1] *of* [prior to] any adoption year, select, approve, and publish a list of ten (10) books *or programs* in each subject and grade, taking into account the needs of the various types of school organizations. [Not more than two (2) books for any subject and grade so listed shall be from the same person, firm, or corporation. If less than ten (10) books in any subject and grade are offered, the] *The* commission [may list fewer than ten (10), but in that event it] shall not list more than one (1) book *or program* for the same subject and grade from the same person, firm, or corporation. [The list shall be certified and presented to the superintendent of public instruction on or before October 10 following the selection.]

(2) The state textbook commission shall have the authority to reject any book which contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, Provided the publisher of such a book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list. The state textbook commission shall have the authority to add books to the state list when the number of books on the list is less than ten (10) per subject and grade or when the list does not contain books for subjects added to the state courses of study.

(3) The superintendent of public instruction shall make and execute contracts for the selected books with the publishers *on or before January 1 following* [within fifteen (15) days of] the approval of the books selected by the commission. Except *as* [for the adoptions in 1955] described heretofore in KRS 156.400, all contracts shall run for *five (5)* [four (4)] years.

(4) The state textbook commission, *on or before May 1* [during the interval from April 15 to April 25 inclusive], shall designate *books or programs* [one (1) book] on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 15 [1].

(5) The superintendent of public instruction shall prepare a *multiple* list of the *selected* [adopted] books or programs and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.

Section 8. KRS 156.437 is amended to read as follows:

(1) The state board of education, upon the recommendation of the superintendent of public instruction, may designate subjects in the state courses of study for which programs may be listed by the state textbook commission and adopted by the county and independent school districts [and the state model and practice schools] in lieu of the number of books as stipulated in subsection (1) of KRS 156.435;[,] subsections (2) and (3) of KRS 156.440; subsections (1) and (2) of KRS 156.472; subsections (1) and (2) of KRS 156.474 and KRS 156.476.

(2) The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe rules and regulations for the listing by the state textbook commission, adoption by local adoption units, the purchase of subject programs for the pupils in the state public schools.

Section 9. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state multiple list of textbooks by the textbook commission. [The textbook publishers shall ship and bill these copies to the local boards of education at the lowest wholesale price with shipping charges prepaid. After the school districts have made their textbook adoptions and certified them to the superintendent of public instruction, all sample copies of books shall be returned to the publishers from whom obtained by May 1, shipping charges to be paid by the publishers. On the other hand, the local boards of education may retain the books but shall pay the publishers the lowest wholesale price for them.]

(2) The board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 [1] of any adoption year, select from the state multiple list *books or programs* [one (1) book] for each subject and grade to be used as a basal text, in its school system for a period of *five (5)* [four (4)] years.

(3) County and/or independent school district or districts, however, may decline to make textbook adoptions. Such a school district or districts that decline or fail to make textbook adoptions on or before April 15 [1] shall use the books or programs on the state multiple list designated by the state textbook commission for each subject and grade for the adoption period.

(4) After the local board of education has adopted the basal textbooks for use of the district and not later than April 20 [15], the superintendent of schools shall send to the superintendent of public instruction a complete list of books adopted properly certified by the chairman and secretary of the board of education.

Section 10. KRS 156.470 is amended to read as follows:

Textbooks [Sample books] submitted to the state textbook commission for examination shall remain *in the office of the superintendent of public instruction for the period of the adoption* [the property of the person submitting them if claimed within thirty (30) days after adoption]. *After the adoption period* [If not claimed within that period] they shall be sold by the state board of education.

Section 11. KRS 156.472 is amended to read as follows:

(1) [This section accords the same rights and privileges to the model and practice schools of the Morehead State University, the Eastern Kentucky State University, the Western Kentucky State University, the Murray State University, the Kentucky State College, and the University of Kentucky that are granted to the county and independent school districts as to textbook adoptions and purchases. The board of regents of the five state colleges and the board of trustees of the University of Kentucky, upon the recommendations of their presidents, may make textbook adoptions from the state multiple list of textbooks, as approved and listed by the state textbook commission.] All regulations of the state board of education and the statutory laws, which are applicable to textbook adoptions, *purchases and distribution* by the county and independent school districts, shall apply to textbook adoptions, *purchases and distributions* for the *state college and university* model and practice schools.

(2) The superintendent of public instruction, subject to the approval of the state board of education, shall purchase from the publishers whose books have been adopted for use in the model and practice schools and distribute them without cost to the pupils enrolled in grades one (1) through eight (8). All regulations of the state board of education and statutory laws, which are applicable to the purchase and distribution of free textbooks for and to the pupils attending the free public schools in the county and independent school districts in grades one (1) through eight (8), shall apply to the purchase and distribution of free textbooks for and to the pupils attending the model and practice schools in grades one (1) through eight (8).]

Section 12. KRS 156.474 is amended to read as follows:

(1) The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the conditions whereby a school district may make multiple textbook adoptions for the different school subjects by grades. [The school district shall make application to the superintendent of public instruction for permission to make multiple textbook adoptions. The superintendent

of public instruction shall make or have made an adequate study to evaluate the district's conditions. If in his judgment the prevailing conditions within the school district warrant multiple textbook adoptions, the state board of education, upon the recommendation of the superintendent of public instruction, may grant the school district permission to make such textbook adoptions from the state multiple list of textbooks as approved and listed by the state textbook commission.]

(2) The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe the rules and regulations to govern the purchase of the multiple-adopted textbooks for the school district. The superintendent of public instruction, subject to the approval of the state board of education, may purchase the textbooks from the publishers whose books have been adopted by the school district for grades *kindergarten* [one (1)] through eight (8) and distribute them without cost to the pupils attending the free public schools in the school district.

Section 13. KRS 156.476 is amended to read as follows:

The state board of education, upon the recommendation of the superintendent of public instruction, may select [and approve a list of] suitable textbooks and other materials printed in clear type of 18 to 24 points in the different subject areas for children with impaired vision who are attending the free public schools of the commonwealth of Kentucky in grades *kindergarten* [one (1)] through twelve (12). [The listing of such] *Such* textbooks and materials shall not be subject to the official textbook bids, filing fees, textbook sampling, and the stipulated list prices, lowest wholesale prices, exchange prices, and the standards and specifications required for the textbooks approved and listed by the state textbook commission for regular use by the pupils attending the free public schools of the state of Kentucky. The state board of education, upon the recommendation of the superintendent of public instruction, shall have the authority to prescribe rules and regulations for determining the pupils eligible for such books, the number of books to be purchased, and the general administration of the program. The superintendent of public instruction, subject to the approval of the state board of education, may purchase these books [from the approved state list of books from the publishers whose books have been listed by the state board of education] and distribute them without cost to the pupils with impaired vision attending the free public schools of the state. All textbooks purchased under this section for the pupils with impaired vision are the property of the state.

Section 14. KRS 157.100 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board of education, shall purchase textbooks from the publishers whose books have been adopted by the state textbook commission and distribute them without cost to pupils attending grades *kindergarten* [one] *through* [to] eight (8), of the free public schools of the state, in the manner and upon the conditions set out in KRS 157.110 to 157.180.

Section 15. KRS 157.110 is amended to read as follows:

In the purchase and distribution of textbooks the state board of education shall first furnish textbooks to the *primary grades* [first grade], then, if additional funds are available, to the *intermediate grades* [second grade], and so on, until the fund is exhausted. If sufficient funds are not available to furnish all the textbooks to any grade, then the board may determine for what subject or subjects in that particular grade textbooks shall be provided.

Section 16. KRS 157.120 is amended to read as follows:

Purchases of books shall be upon requisitions of *school* [county] superintendents, [independent graded school principals or city superintendents]. The superintendent of public instruction shall prepare or cause to be prepared requisition forms on which each *school* [county] superintendent, [independent graded school principal, or city superintendent] shall requisition the books needed for the next ensuing school term in his district. The requisition shall be filed with the superintendent of public instruction [at least 120 days before the beginning of school in the various districts]. The superintendent of public instruction, under the direction of the state board of education, shall order from the various publishers the textbooks that have been requisitioned. The textbooks shall be shipped by the publisher, by prepaid freight, express or parcel post, as directed by the superintendent of public instruction, direct to the *school* [county] superintendent[, city superintendent, or independent graded school principal]. The publishers shall issue invoices in triplicate *and mail same* [. One (1) shall be sent] direct to the superintendent of public instruction [and two (2) shall be sent to the superintendent or principal receiving the books]. Upon receipt of the books the *school* superintendent [or principal] shall check the shipment against the *departmental purchase order forms and send verified departmental purchase order forms* [invoice and send one (1) verified invoice] to the superintendent of public instruction as a receipt for the shipment. The state board of education may then order payment.

Section 17. KRS 157.145 is amended to read as follows:

(1) The superintendent of public instruction shall each year cause [an inspection to be made of the condition of] all textbooks [returned pursuant to the provisions of KRS 157.140] which have not been made obsolete by *new adoptions* [the adoption, by the state textbook commission, of other books to replace them] *to be rebound upon request of the local districts*. [The inspection provided for by this section shall be for the purpose of determining the condition of the bindings of such books.]

(2) When [the inspection provided for by this section reveals to] the superintendent of public instruction *has received requests for rebinding, he shall prepare necessary forms to be mailed to the rebinding under contract with the Commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the rebinding and local district by the superintendent of public instruction* [that there are textbooks, the general condition of which warrants their being rebound he shall cause a report to be made to the superintendent of public printing, on forms prescribed by the Department of Education, listing in detail the textbooks in need of rebinding.]

(3) Upon receipt of *invoices from the bindery, the superintendent of public instruction will cause departmental purchase order forms to be prepared and mailed to the superintendent or director. The departmental purchase order form will be checked against books rebound and returned to the Department of Education authorizing payment of the invoice* [the report provided for in subsection (2), the superintendent of public printing shall, pursuant to Section 247 of the Constitution and KRS Chapter 57, proceed to contract to have such books rebound].

Section 18. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 are the property of the state. Each superintendent [or principal] making requisition for the books is custodian of the books in his district. He shall issue the books to the various schools in his district according to the rules and regulations formulated by the superintendent of public instruction, subject to the approval of the state board of education.

Section 19. KRS 157.170 is amended to read as follows:

The superintendent of public instruction, subject to the approval of the state board of education, shall make rules and regulations governing the sale of textbooks by superintendents [or principals] to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. *Superintendents* [Principals or superintendents] shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the treasury.

Section 20. Whereas, it is necessary to effect and expedite the proper administration of this legislation, particularly, as it relates to textbook adoption periods, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HB 413, AN ACT relating to educational assistance for children of veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.505 is amended to read as follows:

(1) Any person whose parent was a resident of the Commonwealth of Kentucky upon entrance into military service and who was killed while serving in the armed forces of the United States [during wars declared by Congress or actions of the United Nations] or who died as a result of a service connected disability shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education.

(2) In order to obtain the benefits conferred by subsection (1), the applicant therefor must have resided in Kentucky for five years next preceding his application for admission, and the parent-child relationship must be shown by birth certificate, adoption papers or other documentary evidence. The parent's service and the cause of death must be evidenced by certification from the Veterans' Administration records, its successor or the Department of Defense of the United States. In event one so admitted to a state supported institution of higher education under the provisions of this section shall have obtained a cash scholarship paid or payable to such institution, from whatever source, the amount of such scholarship shall be applied to the credit of such applicant in the payment of incidental expenses of his attendance at such institution, and any balance, if the terms of the scholarship permit, shall be returned to such applicant.

Section 2. KRS 164.515 is amended to read as follows:

(1) Any child or orphan of a permanently and totally disabled [war] veteran or prisoner of war or member of the armed services declared missing in action, who is over the age of 17 [seventeen (17)] and under the age of 23 [twenty-three (23)] shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education or to any state supported vocational training school for a period not in excess of 36 [thirty-six (36)] months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent of the child claiming benefits if living must be rated permanently and totally disabled for pension purpose or one hundred per cent disabled for

compensation purposes by the United States Veterans' Administration of the Department of Defense or if deceased the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the department of defense. The father's service and rating must be evidenced by certification from the Veterans' Administration records, its successor or the Department of Defense of the United States.

(3) In the absence of certification of permanent and total disability by the United States Veterans' Administration or the Department of Defense, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice in the Commonwealth of Kentucky or an official of an accredited medical hospital in the Commonwealth of Kentucky.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence.

(5) To entitle a child or orphan to benefits under this section the disabled [war] veteran living or deceased must have served [during time of war or the Korean conflict or subsequent periods of federally recognized hostilities] in the Armed Forces of the United States, and his discharge therefrom must have been under honorable conditions. He must be a resident or if deceased, was a resident of the Commonwealth of Kentucky, and his residency must have been for a period of not less than five [(5)] years immediately preceding *his date of entrance into the armed forces of the United States* [June 16, 1966].

(6) To receive benefits under this section an eligible child, or orphan, must be a graduate of an accredited high school as recognized by the State Department of Education.

(7) No provision of this section shall serve to deny these benefits to an eligible child, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged therefrom under honorable conditions; such period of time spent in the military service to be compensated by like time, beyond the age of 23 years if required, but not in excess of the period of enrollment as set forth in subsection (1) above.

(8) The marriage of an eligible child, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

HR 31, A JOINT RESOLUTION relating to higher education.

WHEREAS, a majority of the state community colleges, colleges, and universities of the Commonwealth accept the credit hours of students transferring from one such institution to another, but some such institutions do not accept the student's cumulative grade point average for credit hours transferred; and

WHEREAS, this practice works an undue hardship upon the student because he must establish a new cumulative grade point average at the place of transfer, when such institution does not accept the grade average; and

WHEREAS, the cumulative grade point average of a student may affect his employment opportunities upon graduation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Council on Public Higher Education direct the state community colleges, colleges, and universities to compute and accept the cumulative grade point average of a student who transfers from one such institution to another, using those courses which are accepted for credit by the institution to which the student transfers, should such student so request.

HR 38, A RESOLUTION expressing support for the Council on Public Higher Education's efforts to arrange a reciprocal tuition program with Tennessee.

WHEREAS, the House of Representatives of the Kentucky General Assembly is concerned with the educational opportunities available to all students of the Commonwealth; and

WHEREAS, the rising cost of pursuing a program of higher education works a hardship on many Kentucky students; and

WHEREAS, a reciprocal tuition program between the institutions of higher education of Kentucky and Tennessee would provide a broadening of the educational opportunities for students of both states; and

WHEREAS, an agreement on tuition reciprocity would place Kentucky and Tennessee in the forefront of innovation in higher education as the third and fourth states in the nation to implement such programs; and

WHEREAS, the number of non-resident students attending institutions of higher education in each state would be approximately equal, thereby causing no appreciable loss of revenue to either state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Council on Public Higher Education be and is congratulated for its efforts in attempting to establish a program of tuition reciprocity between the institutions of higher education of Kentucky and Tennessee, and that the Council on Public Higher Education be and is provided the support and encouragement of the House of Representatives in its continued efforts to implement said program.

The Committee on Health and Welfare reported **HB 376** and **HB 377** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 376, AN ACT relating to dental laboratories and dental laboratory technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of dentistry.

(2) Any person shall be regarded as "practicing dentistry" who, for a fee, salary or other reward paid, or to be paid either to himself, or to another person, performs or advertises to perform, dental operations of any kind, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written order or prescription of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell or deliver any such substitute or the services rendered in the construction, reproduction, supply or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another, or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.

(3) "Dental hygiene" shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from beneath the free margin of the gums; and may also include other dental activities not specifically prohibited by this chapter or by regulation of the board provided, that nothing in KRS 313.260 to 313.350 shall be so construed as to affect the practice of medicine or dentistry nor to prevent students of a dental college or university from practicing dental hygiene under supervision of their instructors; and, provided further, that nothing in KRS 313.260 to 313.350 shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth without supervision of a dentist [except in emergency].

(4) "Dental laboratory" includes any person, firm or corporation *other than a licensed dentist*, who directly or through an agent or employee, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, *other than those unfinished substitutes normally available through dental supply houses*, or who furnishes, supplies, constructs or reproduces or repairs any prosthetic denture, bridge or appliance to be worn in the human mouth or who *performs or offers or undertakes to perform or accomplish* [in any way purports to be a] dental laboratory technology.

(5) "Dental laboratory technician" means any individual who performs or offers or undertakes to perform or accomplish dental laboratory technology and who is classified as such by regulations of the board adopted as provided in this Chapter.

(6) "Commercial dental laboratory" shall mean any dental laboratory as defined in Subsection 4 of this Section *other than a laboratory of practicing dentists, accredited schools and non-profit institutions for use only for their own patients*.

(7) "*Commission*" means the dental laboratory advisory commission.

(8) "*Laboratory Association*" means the Kentucky Dental Laboratory Association.

Section 2. A new section of KRS Chapter 313 is created to read as follows:

(1) There is hereby created a Dental Laboratory Advisory Commission which shall be composed of six members appointed by the board from a list of registered dental laboratory owners and managers and registered dental laboratory technicians selected by registered dental laboratory owners and managers and registered dental technicians as hereafter provided. Four members of the commission shall be dental laboratory owners or managers and two members shall be dental laboratory technicians who are not dental laboratory owners or managers. The members of the commission shall serve four year staggered terms. Of the first members appointed to such board, three shall serve for two years, and three shall serve for four years. The length of each term of those initially appointed shall be designated by the board at the time of appointment.

(2) Each member of the commission shall be appointed from a list of two nominees for each appointment, certified to the board by the laboratory association as qualified for such appointment.

(3) The commission shall advise the board on all matters concerning dental laboratories and dental laboratory technicians; and the board shall refer to the commission all matters concerning rules, fees, registration and all other matters affecting dental laboratories and dental laboratory technicians for commission study and recommendations thereon. The drafting and recommending of rules, regulations, fees and registration requirements shall be the sole responsibility of the commission but the final adoption of such rules, regulations, fees and registration requirements shall be the responsibility of the board upon a majority vote of the members of the board. The members of the commission shall be entitled to receive the same compensation as members of the board plus any necessary expenses incurred in attending its meetings. No practicing dentist shall be a member of the commission.

Section 3. A new section of KRS Chapter 313 is created to read as follows:

(1) On or before March 1 of each calendar year the owner or owners and manager of each dental laboratory in this state shall annually register with the board each dental laboratory in this state with which he has any connection or interest, and in connection with such application, shall pay a fee of not less than \$10.00 and not more than \$100.00 as recommended by the commission and determined by the board. Such application shall set forth such facts as the board may require after the board has received the recommendations of the commission.

(2) On or before March 1 of each calendar year each dental laboratory technician shall annually register with the board and shall pay in connection with such application a fee of not less than \$5.00 and not more than \$20.00 as recommended by the commission and determined by the board. Such application shall set forth such facts as the board may require after the board has received the recommendations of the commission.

(3) The receipt and expenditure of all fees received by the board from (1) and (2) above shall be accounted for by the board annually to the commission on or before June 30 of each year, beginning on July 1, 1975, and no funds shall be expended by the board from fees paid by registrants under (1) and (2) above for any purpose other than the government and regulation of such registrants.

(4) Employees of a dental laboratory, other than dental laboratory technicians, shall not be required to register under this chapter. A list of all such employees, other than dental laboratory technicians, shall be furnished annually to the board and to the commission as required by regulations adopted by the board.

(5) The board shall issue a certificate of authority to perform as a dental laboratory or as a dental laboratory technician upon the board's determination that the registrant has complied with the provisions of this Act and of regulations adopted by the board.

Section 4. A new section of KRS Chapter 313 is created to read as follows:

It shall be unlawful for any person, firm, association, corporation, or combination thereof to offer or undertake in any manner to operate a commercial dental laboratory or act as dental laboratory technicians, whether within or outside the office of a licensed dentist, or to do or perform any of the acts described in this Chapter in this state without having first registered with the board, and having received a certificate of authority therefrom, as provided in this Act.

Section 5. A new section of KRS Chapter 313 is created to read as follows:

The board shall have the authority to commence in its name injunctive proceedings to enjoin any person, firm, association, corporation, or combination thereof in violation of this Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.290 is amended to read as follows:

Any person of good moral character over eighteen (18) years of age who is a citizen of the United States of America, a graduate of an accredited high school, and has successfully completed a *training program* [two (2) years of training] in a school of dental hygiene that is *accredited by the Council on Dental Education of the American Dental Association and* approved by the board, shall be eligible to take the examination for the practice of dental hygiene.

The Committee on Judiciary reported **HB 149**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 149, AN ACT relating to trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 386.350 to 386.360 is created to read as follows:

(1) Upon termination or dissolution of any trust or other entity (other than a corporation) which is or may become an exempt organization as described in Section 501(c)(3) of the Internal Revenue Code of 1954, as amended or a charitable trust described in Section 4947(a)(1) of the Internal Revenue Code of 1954, as amended, any assets lawfully available for distribution shall be distributed to one or more qualifying organizations described in Section 501(c)(3) of said Internal Revenue Code (or described in any corresponding provision of any successor statute) which organization or organizations have a charitable purpose which, at least generally, includes a purpose similar to the terminating or dissolving organization. The organization to receive the assets of the dissolving organization hereunder shall be selected in the discretion of a majority of the managing body of the dissolving organization, and if its members cannot so agree, then the recipient organization shall be selected pursuant to a verified petition in equity filed in a court of proper jurisdiction against the terminating or dissolving organization by one or more of its managing body which verified petition shall contain such statements as reasonably indicate the applicability of this section. The court upon a finding that this section is applicable shall select the qualifying organization or organizations to receive the assets to be distributed, giving preference if practicable to organizations located within the Commonwealth of Kentucky. In the event that the court shall find that this section is applicable but that there is no qualifying organization known to it which has a charitable purpose, which, at least generally, includes a purpose similar to the terminating or dissolving organization, then the court shall direct the distribution of its assets lawfully available for distribution to the Treasurer of the Commonwealth of Kentucky to be added to the General Fund.

(2) For purposes of this section "assets lawfully available for distribution" shall include the assets of a terminating or dissolving organization remaining after:

- (a) Payment, or provision for payment, of all liabilities and obligations of the organization, and
- (b) Return, transfer or conveyance of any assets held by the organization (the terms of creating instrument of which require such return, transfer or conveyance upon termination or dissolution or otherwise) in accordance with the terms of the creating instrument, and
- (c) In the event legal action is filed pursuant hereto, payment or provision for payment of all costs, including a reasonable attorney's fee for the parties, fixed by the court.

(3) This section shall not be construed to deprive any person of any vested property interest which he may have on the effective date hereof.

The Committee Amendment to **HB 149** is as follows:

Amend printed copy of House Bill 149, page 1, Title, to delete: "trusts" and to insert in lieu thereof: "charitable trusts and other organizations"

and on page 1, line 1, to delete: "KRS 386.350 to 386.360," and to insert in lieu thereof: "KRS Chapter 386"

Representative Swinford moved that the rules be suspended to go into Orders of the Day. Agreed.

Orders of the Day

Representative Swinford moved that **HB 14** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kidd moved that **HB 14** be placed upon its passage.

On the roll call the vote was yeas 91-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 14 was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 14** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 94**, **SB 114**, **SB 126**, **SB 152**, **SB 154**, and **HB 11** with Amendment.

Orders of the Day (continued)

Representative Swinford moved that **SB 23**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Morgan moved the adoption of the Committee Amendment No. 1 to **SB 23**. Agreed.

Representative Kafoglis moved the adoption of the following Floor Amendment No. 2 to **SB 23**:

Amend printed copy of Senate Bill 23, page 6, lines 10 through 21, by striking out lines 10 through 21 in their entirety and substituting the following:

"(a) The annual normal retirement allowance for members of the General Assembly for legislative service prior to January 1, 1974 shall be as prescribed in Chapter 116, Section 36(1), Acts of the 1972 General Assembly."

and on page 8, lines 3 through 6, by striking out lines 3 through 6 in their entirety.

On the roll call the vote was yeas 19-Benson, Beshear, Chandler, Clarke, Hancock, Hellard, Holbrook, Hopkins, Kafoglis, Kleier, Nett, O'Brien, Richardson, Stewart, Stone, Swinford, Thomas, Van Horn, Vincent. Nays 57-Allen, Bennett, Blume, Bowles, Brewer, R. Brown, Burch, Clapp, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hardin, Hinkle, Holloway, Hughes, Imes, Isler, Kareem, Kenton, Kidd, King, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Paxton, Reynolds, Roberts, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Smith, Stephens, Troop, Watkins, Wells, G. White, Whitfield, Yates.

Floor Amendment No. 2 to **SB 23** was rejected.

Representative Kafoglis moved the adoption of the following Floor Amendment No. 3 to **SB 23**:

Amend printed copy of Senate Bill 23, page 3, line 22, by striking out the sum "\$15,000" and substituting therefor the sum "\$6,875"

and on page 6, lines 10 through 21, by striking out lines 10 through 21 in their entirety and substituting therefor the following:

"(a) The annual normal retirement allowance for members of the General Assembly shall be as prescribed in Chapter 116, Section 36(1), Acts of the 1972 General Assembly."

and on page 6, line 22, by changing "(c)" to "(b)"

and on page 8, lines 3 through 6, by striking out lines 3 through 6 in their entirety

and on page 8, line 7, by changing "4" to "3"

and on page 8, following line 12, by adding the following new section:

"Section 4. Whereas, to insure the actuarial soundness of the Kentucky Employees Retirement System and to implement provisions of this Act, the following sums are appropriated out of the General Expenditure Fund in the State Treasury:

A. To the Kentucky Employees Retirement System for employer's and employees' shares, plus accrued interest:

1974-75 ----- \$864,112

B. To the Legislative Research Commission:

1973-74 ----- \$ 29,778

1974-75 ----- \$ 59,556

1975-76 ----- \$ 59,556

The amounts in subsection B shall be used solely for matching retirement contributions by members of the General Assembly under terms of this Act."

On the roll call the vote was yeas 18-Beshear, Bruce, Chandler, Clarke, Crupper, Hancock, Hellard, Hopkins, Kafoglis, Lewis, Nett, O'Brien, Romines, Stone, Swinford, Thomas, Troop, Van Horn. Nays 60-Allen, Arnold, Bennett, Blume, Bowles, Brewer, R. Brown, Burch, Clapp, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Graves, Guenther, Hardin, Hinkle, Holbrook, Holloway, Hughes, Imes, Isler, Kareem, Kenton, Kidd, King, Kleier, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Paxton, Reynolds, Richardson, Roberts, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates.

Floor Amendment No. 3 to **SB 23** was rejected.

Representative Morgan moved that **SB 23** as amended be placed upon its passage.

On the roll call the vote was yeas 51-Bennett, Blume, Bowles, Brewer, R. Brown, Clapp, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hardin, Head, Hinkle, Hughes, Isler, Kareem, Kenton, Kidd, King, Little, Loudon, Mann, McBee, McBride, McGill, Morgan, Paxton, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Watkins, Wells, G. White, Wible, Yates. Nays 39-Allen, Arnold, Benson, Beshear, Blandford, Bruce, Burch, Chandler, Clarke, Crupper, Givhan, Hancock, Harris, Hellard, Holbrook, Holloway, Hopkins, Hurst, Imes, Kafoglis, Kleier, Lewis, Lindsay, Mason, Maynard, McBrayer, Nett, O'Brien, Pearman, Quickert, Richardson, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Whitfield.

SB 23 as amended was passed and the title agreed to.

Representative Morgan moved that the vote by which **SB 23** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 30** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Graves moved that **HB 30** be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Hellard, Hinkle, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 30 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 30** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 217** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Sale moved the adoption of the following Floor Amendment No. 1 to **HB 217**:

Amend printed copy of House Bill 217, page 2, lines 3, 4, 6, 7 and after line 17,

On page 2, beginning on line 3, following the word "Louisville", by inserting the word "and" and deleting the bracket before the word "The"

Line 4, following the word "Playhouse" by inserting a "," and placing a bracket before the word "throughout"

line 5, following the word "States,]" by inserting the word "are" and bracketing the word "is"

line 6, following the word "state" by inserting the word "theatres" and bracketing the word "theatre"

line 7, following the word "state" by inserting the word "theatres" and bracketing the word "theatre"

after line 17, by inserting the following:

"Section 2. KRS 153.120 is amended to read as follows:

(1) *State Theatres* [The state theatre] may charge tuition for attending *their schools* [the school] of drama and may charge the public admission for attending *their* [the] plays and performances, and this shall be the primary income of the state *theatres* [theatre].

(2) The commissioner of parks is authorized to enter into such contracts and make such guarantees to the state *theatres* [theatre] for the presentment of their plays in state parks as shall be approved by the department of finance.

(3) The income so received shall be used by [the] state *theatres* [theatre] to meet the cost of expenses of the productions and the operation of the school, the depreciation or replacement of equipment, and reasonable compensation to the officers and employees of [the] state *theatres* [theatre].

Section 3. KRS 153.130 is amended to read as follows:

The commissioner of parks is authorized to accept gifts, donations, bequests and scholarships for the use and benefit of the state *theatres* [theatre].

Section 4. KRS 153.140 is amended to read as follows:

Nothing in KRS 153.110 to 153.140 shall be construed as prohibiting the state *theatres* [theatre] from:

- (1) Receiving gifts, donations, bequests and scholarships directly from a benefactor;
- (2) Receiving a direct appropriation from the general assembly; or
- (3) Presenting public plays and performances at places other than the various state parks."

On the roll call the vote was yeas 29-Adams, Allen, Arnold, Blandford, Bowles, Brewer, R. Brown, Clarke, Davis, Dawahare, DeMarcus, Denham, Hardin, Hinkle, Holbrook, Lindsay, May, Morgan, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stone, Van Horn, Vincent, Watkins. Nays 51-Bennett, Benson, Beshear, Blume, Bruce, Burch, Chandler, Clapp, Crupper, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Harris, Hellard, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kleier, Lewis, Mann, Mason, Maynard, McBee, McBrayer, McBride, Nett, O'Brien, Pearman, Paxton, Quickert, Richardson, Siemens, Stephens, Stewart, Swinford, Troop, J. White, Whitfield, Wible, Yates.

Floor Amendment No. 1 to **HB 217** was rejected.

Representative Karem moved that **HB 217** be placed upon its passage.

On the roll call the vote was yeas 70-Arnold, Bennett, Benson, Beshear, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hinkle, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Richardson, Romines, Siemens, Stephens, Stewart, Swinford, Troop, Vincent, Watkins, Whitfield, Wible, Yates. Nays 10-Blandford, Clarke, Rattliff, Robinson, Sale, Stone, Thomas, Van Horn, Wells, G. White.

HB 217 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 217** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 247**, **HB 306**, **HB 309**, **HB 362** with Committee Amendment attached thereto, **HB 388**, and **SB 81** be deferred and that they retain their position in Orders of the Day. Agreed.

Motions, Petitions and Communications

Representative Yates requested that he be recorded as voting "yea" on **HB 14**.

Representative Blythe requested that he be recorded as voting "no" on the amendment to **HB 217**.

The following members requested that their names be added as co-sponsors to bills: Representative Little, **HB 9**; Representative Romines, **HB 316**; and Representative Beshear, **HB 372**.

Representative Wells filed Floor Amendment No. 3 to **HB 50**.

Representative Bruce filed Floor Amendment No. 2 to **HB 384**.

Representative Wible requested that he be recorded as voting "yea" on **HR 29**, **HB 49**, and **HB 327**.

- Representative Watkins requested that he be recorded as voting "yea" on **HR 29**.

Representative Richardson moved that **SJR 9** be recommitted to the Committee on Judiciary.

Representative McBride moved that the motion that **SJR 9** be recommitted to the Committee on Judiciary be laid on the table.

On the roll call the vote was yeas 46-Arnold, Bennett, Benson, Blandford, R. Brown, Burch, Chandler, Clapp, Crupper, Denham, Dietz, Donnermeyer, Dunn, Foster, Hancock, Harris, Head, Hellard, Hughes, Hurst, Isler, King, Kleier, Lewis, Little, Mann, May, Maynard, McBee, McBride, McGill, Nett, O'Brien, Pearman, Priddy, Quickert, Reynolds, Roberts, Romines, Siemens, Stewart, Thomas, Van Horn, Vincent, Watkins, Yates. Nays 16-Beshear, Blume, Blythe, Clarke, Dawahare, Graves, Kafoglis, Kareem, Mason, Richardson, Stephens, Stone, Swinford, Troop, Whitfield, Wible.

The motion that **SJR 9** be recommitted to the Committee on Judiciary was laid on the table.

Announcements

Representative Swinford filed Floor Amendment No. 1 to **HB 391**.

Representative Beshear filed Floor Amendment No. 1 to **HB 304**.

Representative O'Brien filed Floor Amendment No. 1 to **HB 388**.

Representative Swinford moved that the rules be suspended for Calendar, Posting of Bills and Resolutions for Consideration, and Introduction of Bills and Resolutions. Agreed.

Calendar

HB 103 with Committee Amendment attached thereto, **HB 151**, and **HB 276** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 236**.

Appropriations and Revenue: **HB 305**.

Cities: **HB 487**, **HB 501**, **HB 520**, **SB 157**.

Labor and Industry: **HB 264**, **HB 403**, **HB 420**, **HB 514**.

Highways and Traffic Safety: **HB 505**.

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Labor and Industry: **HB 106**.

Introduction of Bills and Resolutions

HB 532, by Representatives Watkins and Richardson: AN ACT relating to periodic accounting by fiduciaries.

HB 533, by Representative Richardson: AN ACT relating to condemnation.

HB 534, by Representatives Schmidt, Mann and Donnermeyer: AN ACT relating to motor vehicle registration.

HB 535, by Representatives Benson and Siemens: AN ACT relating to hours and wages.

HB 536, by Representative Benson: AN ACT relating to campaign disclosure.

HB 537, by Representative Donnermeyer: AN ACT relating to alcoholic beverages.

HB 538, by Representatives Thomas, Burch and Mann: AN ACT relating to the instruction of alcohol and drug use.

HB 539, by Representatives Thomas, Donnermeyer and Mann: AN ACT relating to the licensing of health personnel.

HB 540, by Representatives Imes and Lewis: AN ACT relating to police and firemen's retirement in cities of the third class.

HB 541, by Representatives Whitfield, Imes, Graves and Morgan: AN ACT relating to firemen in cities of the third class.

HB 542, by Representatives King, Burch, Crupper, Denham, Dietz, Donnermeyer, Dunn, Isler, Kenton, Kidd, Kleier, Loudon, Mann, McBee, Nett, Quickert, Schmaedecke, Schmidt, Smith, Watkins, and Wible: AN ACT relating to insurance.

HR 51, by Representatives Siemens, Yates, Priddy, Adams, Benson, Brewer, Burch, Donnermeyer, Dunn, Dawahare, Little, Mann, Maynard, Roberts and Sharpe: A RESOLUTION expressing House sentiment that the Labor and Industry committee work to promote industrial and economic development throughout the Commonwealth.

HR 52, by Representative Hinkle: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the feasibility of making district boards of education their own taxing authority.

Announcements

The following meetings were announced:

State Government, 1:00 p.m., February 14, 1974, Room 305A.

Counties and Special Districts, 2:00 p.m., February 14, 1974, Room 305A.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 p.m., Thursday, February 14, 1974.

On the roll call the vote was yeas 62-Arnold, Bennett, Benson, Beshear, Blume, Blythe, R. Brown, Bruce, Chandler, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Head, Hellard, Hinkle, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Priddy, Quickert, Roberts, Romines, Sale, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, G. White, Whitfield, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 14, 1974

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Williamson Brown, Church of the Ascension, Frankfort.

The roll was called. All present except Representatives E. Brown, Hinkle, and Stewart.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives E. Brown, Hinkle, and Stewart.

Representative Hughes moved that the reading of the Journal of February 13, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 543, by Representatives Denham and Swinford: AN ACT relating to service of process on non residents.

HB 544, by Representative Swinford: AN ACT relating to plumbers and plumbing.

HB 545, by Representative Swinford: AN ACT relating to revenue and taxation.

HB 546, by Representative Paxton: AN ACT relating to the reporting of vehicle accidents.

HB 547, by Representative Paxton: AN ACT relating to chemical tests in fatal vehicle crashes.

HB 548, by Representative Paxton: AN ACT relating to criminal records.

HB 549, by Representative Givhan: AN ACT relating to savings and loan associations.

HB 550, by Representative Givhan: AN ACT relating to the employment of minors.

HB 551, by Representative Kafoglis: AN ACT relating to motor vehicle operator's licenses.

HB 552, by Representatives Reynolds, Dawahare, Deitz, Donnermeyer, Freeman, Kenton, Little, Roberts and Romines: AN ACT relating to Community Action Corporations.

HB 553, by Representative Bruce: AN ACT relating to state legislative districts.

HB 554, by Representatives Paxton and Schmaedecke: AN ACT relating to specifying the amount sued for in pleadings and instructions to juries.

HB 555, by Representatives Robinson and Reynolds: AN ACT relating to juror compensation.

HB 556, by Representatives Crupper, Hancock, R. Brown, Denham, Dietz, Isler, Loudon, Mann, McBee and G. White: AN ACT relating to the milk control program.

HB 557, by Representative Harris: AN ACT relating to motor carriers.

HB 558, by Representative Reynolds: AN ACT authorizing the Department for Finance and Administration to adopt regulations for the control of traffic and vehicle parking on grounds appurtenant to state-owned buildings and prescribing penalties for the violation of such regulations.

HB 559, by Representative Schmaedecke: AN ACT relating to income tax.

HB 560, by Representatives Swinford and McBee: AN ACT relating to the Kentucky Pollution Abatement Authority.

HB 561, by Representatives Bennett, Burch, Little and Van Horn: AN ACT relating to education.

HB 562, by Representatives Dietz, Imes, McBrayer, Dawahare, Donnermeyer and Isler: AN ACT relating to liquified petroleum gas storage.

HB 563, by Representatives Stephens, Hellard, Benson, Blythe, R. Brown, Crupper, Foster, Hancock, Hopkins, Hughes, Richardson, Sale, Schmidt, Stewart, Troop, G. White and Whitfield: AN ACT relating to penalties for littering.

HB 564, by Representative Holbrook: AN ACT relating to possession of controlled substances.

HB 565, by Representatives Stephens, Beshear, Hopkins, Hinkle and Kenton: AN ACT relating to urban county governments.

HB 566, by Representative Stephens: AN ACT to provide for contributions to public elementary and secondary schools.

HB 567, by Representatives Hopkins, Kenton, Stephens and Beshear: AN ACT relating to public improvements by urban county governments.

HB 568, by Representative Graves: AN ACT relating to the office of the auditor of public accounts.

HB 569, by Representative Wible: AN ACT relating to distilled spirits and wine.

HJR 53, by Representative Swinford: A JOINT RESOLUTION on retirement benefits for public employees.

HR 54, by Representatives Hughes and Hellard: A RESOLUTION inviting the Honorable Henry Jackson to address the House of Representatives.

HR 55, by Representatives Mann, Nett, Crupper, Dietz, Donnermeyer, Isler, Karem, Kenton, King, McBee, Schmaedecke and Schmidt: A RESOLUTION directing that a study be made of intellectually gifted children.

Reference of Bills and Resolutions

Appropriations and Revenue: **HB 522.**

Banking and Insurance: **HB 542.**

Business Organizations and Professions: **HB 537.**

Cities: **HB 540, HB 541.**

Education: **HB 538, SB 130.**

Elections and Constitutional Amendments: **HB 536.**

Health and Welfare: **HB 526, HB 539.**

Highways and Traffic Safety: **HB 523, HB 524, HB 534.**

Judiciary: **HB 525, HB 529, HB 532, HB 533, SB 126.**

Labor and Industry: **HB 521, HB 527, HB 535, SB 114.**

Public Utilities and Transportation: **HB 528.**

State Government: **HB 530, HB 531, SB 58, SB 94, SB 152, SB 154.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 476.**

Counties and Special Districts: **HB 319.**

Report of Committees

The Committee on Rules reported **HB 384** with Committee Amendment attached thereto, **HB 356** with Committee Amendment attached thereto, **HR 36, HB 313, SB 9** and **HB 276** have been posted for passage in Orders of the Day, February 15, 1974.

The Committee on Rules reported **HB 322** has been recommitted to the Committee on Banking and Insurance for the purpose of considering any rate changes which might occur under this legislation.

The Committee on Agriculture and Natural Resources reported **HB 9** with Committee Amendment attached thereto and **HR 30** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 9, AN ACT relating to strip mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

(1) No operator shall engage in strip mining without having first obtained from the department through the division a permit designating the area of land affected by the operation. The permit shall authorize the operator to engage in strip mining upon the area of land described in his application for a period of one year from the date of its issuance;

(2) An operator desiring a permit shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area within five hundred (500) feet of any part of the affected area;

(c) The owner or owners of the coal, to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) if known, ten percent (10%) or more of any class of stock of the applicant, is subject to any of the provisions

of subsection (3) of KRS 350.130 and he shall so certify;

(3) The application for a permit shall be accompanied by two copies of a United States geological survey topographic map on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map;

(4) The application for a permit shall be accompanied by two copies of an enlarged United States geological survey topographic map meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS chapter 322. The certification shall be in the form as provided in subsection (5) below;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining and the boundaries of surface properties and names of owners on the affected area and within five hundred (500) feet of any part of the affected area;

(d) Be of a scale of not less than four hundred (400) feet to the inch and not to exceed six hundred and sixty (660) feet to the inch;

(e) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(f) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(g) Show the date on which the map was prepared, the north point and the quadrangle name;

(h) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge;

(5) The certification of the maps by the professional engineer shall read as follows: "I, the undersigned, hereby certify that this map is correct, and shows to the best of my knowledge and belief all the information required by the strip mining laws of this state." The certification shall be signed and notarized. The division may reject any map as incomplete if its accuracy is not so attested;

(6) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto;

(7) *Each application shall also be accompanied by a statement of consent to have strip mining conducted upon the area of land described in the application for a permit. The statement of consent shall be signed by each holder of a freehold interest in such land. Each signature shall be notarized. No permit shall be issued if the application therefor is not accompanied by the statement of consent.*

(8) [(7)] A basic fee of one hundred and fifty dollars (\$150) plus thirty-five dollars (\$35.00) for each acre or fraction thereof of the area of land to be affected by the operation shall be paid before the permit required herein shall be issued. The operator shall file with the division a bond payable to the commonwealth of Kentucky with surety satisfactory to the division in the penal sum to be determined by the department on the recommendation of the director of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000) for each acre or fraction thereof of the area of land affected, with a minimum bond of two thousand dollars (\$2,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond within the above limits, the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required. In a particular instance where the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a particular operation to less than the required minimum.

The Committee Amendment No. 2 to **HB 9** is as follows:

Amend printed copy of House Bill 9, page 5, line 1, by adding the following sentence after the period: "*This statement of consent shall not be required for coal mined under the provisions of KRS Chapter 351 and KRS Chapter 352.*"

HR 30, A JOINT RESOLUTION directing the Council on Public Higher Education to develop and implement a program for placing Kentucky students in schools of veterinary medicine.
WHEREAS, Kentucky does not have a school of veterinary medicine; and

WHEREAS, Kentucky students desiring training toward the degree of Doctor of Veterinary Medicine must attend school in other states; and

WHEREAS, the Commonwealth currently has contractual agreements with Auburn University, Tuskegee Institute, and Ohio State University which permit a total of only twenty-two entering students in veterinary medicine annually; and

WHEREAS, less than one-third of the Kentucky students applying for entrance to veterinary schools have been accepted under the contractual agreement since 1967; and

WHEREAS, many qualified residents of the Commonwealth are therefore denied the opportunity of pursuing their educational and professional career choice;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Council on Public Higher Education is hereby directed to develop and implement a program for providing additional entrance placement positions for all qualified Kentucky students desiring training in veterinary medicine who make application for admission to any of the established schools of veterinary medicine.

The Committee on Banking and Insurance reported **HB 343**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 343, AN ACT relating to fiduciary investment companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 291 is created to read as follows:

As used in this Act, the following terms shall be construed to have the meaning set forth by this section, unless a contrary meaning clearly appears from the context:

(1) The term "trust institution" means any of the following corporations having trust powers and authorized to act in a fiduciary capacity under the laws of Kentucky: Any state bank or trust company incorporated under the laws of Kentucky and any national banking association incorporated under the laws of the United States and having its principal office in Kentucky.

(2) The term "investment adviser" of a fiduciary investment company means a (a) any trust institution which, pursuant to contract with a fiduciary investment company possessing the qualifications provided by this Act, regularly furnishes advice to such investment company with respect to the desirability of investing in, purchasing or selling securities or other property or is empowered to determine what securities or other property shall be purchased or sold by such investment company, and (b) any person other than a trust institution, who, pursuant to contract with such trust institution, regularly performs substantially all of the duties undertaken by such trust institution.

(3) The term "fiduciary investment company" means a corporation which is an investment company as defined by the Act of Congress entitled "Investment Company Act of 1940" approved August 22, 1940, as amended, and is incorporated in accordance with the "Kentucky Business Corporation Act" as to constitute a medium for the investment of funds held by trust institutions and foreign trust institutions in a fiduciary capacity, either alone or with one or more co-fiduciaries.

(4) The term "supervisory agency" means (a) the Comptroller of the Currency of the United States with respect to any fiduciary investment company having a national banking association as an investment adviser, and (b) the Commissioner of Banking and Securities of the Commonwealth of Kentucky with respect to any fiduciary investment company having a state bank as an investment adviser. The term shall mean the Commissioner of Banking and Securities of the Commonwealth of Kentucky with respect to any fiduciary investment company which does not have an investment adviser.

(5) The term "foreign trust institution" means any state bank or trust company organized under the laws of any state other than Kentucky or any national banking association incorporated under the laws of the United States and having its principal office in some state other than Kentucky, which has trust powers and is authorized to act in a fiduciary capacity under the laws under which it was incorporated.

Section 3. A new section of KRS Chapter 291 is created to read as follows:

Any one or more trust institutions may cause a fiduciary investment company or companies to be organized and incorporated, but no trust institution or foreign trust institution may own an interest in more than seven fiduciary investment companies. A fiduciary investment company shall not begin business except to select an investment advisor, until it is approved by the appropriate supervisory agency. A fiduciary investment company shall be subject to such regulations as its supervisory agency may from time to time prescribe.

Section 4. A new section of KRS Chapter 291 is created to read as follows:

Any such fiduciary investment company shall be incorporated under and subject to the provisions of the Kentucky Business Corporation Act. The incorporators shall be persons who are officers or directors of the trust institution or institutions causing such fiduciary investment company to be incorporated and the articles of incorporation shall set forth the names of each trust institution participating in such incorporation and the amount of stock original subscribed for by each, together with such other facts as are required by the Kentucky Business Corporation Act.

Section 5. A new section of KRS Chapter 291 is created to read as follows:

Trust institutions and foreign trust institutions, as defined by this Act, acting in a fiduciary capacity and for fiduciary purposes, may, if exercising due care as a prudent investor, and with the consent of any co-fiduciary, invest and reinvest funds held in such fiduciary capacity in the shares of stock of one or more fiduciary investment companies, except where the will, trust indenture or other instrument under which such trust institution or foreign trust institution acts, prohibits such investment: Provided the fiduciary investment company shall by its articles of incorporation issued and granted in conformity with the Kentucky Business Corporation Act have and possess the corporate powers required by this Act and be subject to the limitation set forth by this Act: Provided, further, that no such trust institution or foreign trust institution shall invest in the stock of a fiduciary investment company on behalf of any estate, trust or fund administered by such trust institution or foreign trust institution a sum or amount which would result in such estate, trust or fund having a total investment in such stock in excess of the maximum amount or percentage that might be invested by such estate, trust or fund, under the regulations of the federal or state agency charged with supervising such trust institution or foreign trust institution, in any common trust fund having total assets equal to the total assets of the fiduciary investment company as increased by the proposed investment. No trust institution or foreign trust institution shall invest in the stock of a fiduciary investment company if, immediately after such investment and as a consequence thereof, it would own more than 25 percent of the voting securities of such fiduciary investment company which would then be outstanding.

Section 6. A new section of KRS Chapter 291 is created to read as follows:

Every fiduciary investment company in which a trust institution or foreign trust institution is authorized by this Act to own and hold corporate stock or shares, in order to qualify for such investments, shall have such corporate powers as may be granted by the Kentucky Business Corporation Act by virtue of its incorporation under that law and shall, in addition, have the following corporate powers under its articles of incorporation and, by its articles of incorporation or its bylaws, be subject to the limitations and restrictions hereinafter set forth.

(1) The stock of any such fiduciary investment company shall be owned and held only by trust institutions and foreign trust institutions acting as fiduciaries or co-fiduciaries but may be registered in the name of the nominee or nominees of any such institution or foreign trust institution. Such stock shall not be subject to transfer or assignment except to the trust institution or foreign trust institution on whose behalf the stock is held by any such nominee or nominees, or to a fiduciary or co-fiduciary which becomes successor to the shareholder and which is also a trust institution or foreign trust institution qualified to hold such stock.

(2) A fiduciary investment company shall have no less than five directors who need not be shareholders but shall be officers or directors of trust institutions or foreign trust institutions holding stock in such fiduciary investment company: Provided, however, no one trust institution or foreign trust institution shall have more than a forty percent representation on the board of directors of any fiduciary investment company.

(3) In acquiring, investing, reinvesting, exchanging, selling and managing its assets, every fiduciary investment company shall exercise the judgment and care under the circumstances then existing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the safety of their capital. Within the foregoing limitations, a fiduciary investment company may acquire and retain every kind of investment, specifically including (but not by way of limitation) bonds, debentures and other corporate obligations, corporate stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account, provided a fiduciary investment company shall not at any time:

(a) investment in real estate, commodities or commodity contracts, except that a fiduciary investment company may invest in securities secured by real estate or interests therein, in securities issued by companies which deal in real estate or investments therein, and in certificates of beneficial interest issued by real estate

investment trusts;

- (b) participate on a joint or joint and several basis in any securities trading account;
- (c) invest in companies for the purpose of exercising control or management;
- (d) make loans to any person or persons, except that the purchase of a portion of an issue of debt securities, convertible debt securities, debt securities with warrants, rights or options attached or other similar securities when originally issued or thereafter, of a character commonly distributed publicly shall not be considered the making of a loan;
- (e) purchase or retain the securities of any issuer if immediately after such acquisition and as a result thereof the following requirements would not be met: at least 75 percent of the total assets in the fiduciary investment company taken at market value are represented by (i) cash and cash items, securities issued or guaranteed by the United States or any instrumentality thereof, and (ii) other securities which, as to any one issuer, do not represent more than 10 percent of the voting securities of such issuer or more than five percent of the value of the total assets of the fiduciary investment company;
- (f) act as underwriter of the securities of other issuers;
- (g) borrow money; or
- (h) engage in margin transactions or short sales, or write put or call options for the purchase or sale of securities.

Section 7. A new section of KRS Chapter 291 is created to read as follows:

(1) A fiduciary investment company may acquire, purchase or redeem its own stock and shall, by means of contract or by its by-laws, bind itself to acquire, purchase or redeem its own stock, but it shall not vote shares of its own stock theretofore redeemed.

(2) A fiduciary investment company shall not be responsible for ascertaining the investment powers of any fiduciary who may purchase its stock and shall not be liable for accepting funds from a fiduciary in violation of restrictions of the will, trust indenture or other instrument under which such fiduciary is acting in absence of actual knowledge of such violation, and shall be accountable only to the supervisory agency and the fiduciaries who are the owners of its stock.

(3) Every fiduciary investment company having a national bank as investment adviser shall comply with all applicable rules and regulations of the Comptroller of the Currency.

Section 8. A new section of KRS Chapter 291 is created to read as follows:

The Commissioner of Banking and Securities shall have authority to adopt and issue reasonable and uniform rules and regulations to govern the conduct and management of all fiduciary trust companies having investment advisers other than national banks. The Commissioner of Banking and Securities may, whenever he may deem it necessary or expedient, examine every fiduciary investment company contemplated by this Act having an investment adviser which is not a national bank. In every such examination, the Commissioner of Banking and Securities shall make inquiry as to its financial condition, the policies of its management, whether it is complying with the laws of Kentucky, and such other matters as the Commissioner of Banking and Securities may reasonably prescribe. In the enforcement of this Act and the restrictions and limitations imposed by their articles of incorporation and by-laws, the Commissioner of Banking and Securities shall have the same powers and authority with respect to fiduciary investment companies having investment advisers other than a national bank as are conferred upon him by the laws of this state with respect to state banks and trust companies to the same extent and in the same manner as if fiduciary investment companies were expressly named in Chapter 287 of the Kentucky Revised Statutes.

Section 9. A new section of KRS Chapter 291 is created to read as follows:

Except as may be specifically authorized by rule or regulation of the appropriate supervisory agency, no trust institution or foreign trust institution holding stock in a fiduciary investment company may advertise or publicize its participation in such fiduciary investment company: Provided that any trust institution or foreign trust institution holding stock in a fiduciary investment company shall furnish the annual or periodic financial reports of such fiduciary investment company, on request, to any person having a beneficial interest therein, and the fact of the availability of such material may be given publicity in connection with the promotion of the fiduciary services of such trust institution or foreign trust institution.

Section 10. A new section of KRS Chapter 291 is created to read as follows:

No person shall serve or act as investment adviser of a fiduciary investment company except pursuant to a written contract, which contract has been approved by the vote of a majority of the outstanding voting securities of such fiduciary investment company and-

- (1) precisely describes all compensation to be paid thereunder;
- (2) shall continue in effect for a period more than two years from the date of its execution, only so long as such continuance is specifically approved at least annually by the board of directors or by vote of a majority of the outstanding voting securities of such company;
- (3) provides, in substance, that it may be terminated at any time, without the payment of any penalty, by the board of directors of such company or by vote of a majority of the outstanding voting securities of such company on not more than 60 days' written notice to the investment adviser; and

(4) provides in substance, for its automatic termination in the event of its assignment by the investment adviser.

The Committee Amendment to **HB 343** is as follows:

Amend printed copy of House Bill 343, page 1, line 1, page 3, lines 9 and 21, page 4, line 8, page 5, line 18, page 8, line 25, page 9, line 19, page 10, line 20, and page 11, line 10 by deleting "291" and inserting in lieu thereof "386";

and on page 1, after line 2 insert "This Act may be cited as the "Fiduciary Investment Company Act".

Section 2. A new section of KRS Chapter 386 is created to read as follows:";

and on page 3, line 11 delete "Any one" and insert in lieu thereof "four";

and on page 9, line 24 delete "trust" and insert in lieu thereof "investment".

The Committee on Cities reported **HB 126** with Committee Amendment attached thereto, **HB 132**, **HB 354**, **HB 455**, **HB 410** and **HB 429** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to city civil service appointments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.350 is amended to read as follows:

(1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the lists of applicants certified to him by the civil service commission after examination. Appointments shall be made only by the selection of one (1) of the three (3) holding the highest averages in the particular class and grade wherein the vacancy exists, except as provided in subsection (6) of this section.

(2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list of as many as three (3) persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission for noncompetitive examination, and if certified by the commission as qualified after the noncompetitive examination he may be appointed provisionally to fill the vacancy until an appointment can be made after competitive examination. This provisional appointment shall continue only until a regular appointment can be made from the eligible list prepared by the commission, which eligible list shall be prepared within thirty (30) days after a vacancy occurs in cities of the second class, or within ninety (90) days after vacancy in cities of the third class.

(3) In case of great emergency and when no one (1) upon the eligible list or by promotion from a lower rank is available, an appointment may be made by the appointing authority without examination, but in no case shall such appointment continue longer than thirty (30) days in cities of the second class, or sixty (60) days in cities of the third class, and in no case shall successive appointments be made of the same person, or other persons, to such vacancy.

(4) Temporary appointments made necessary by reason of illness or disability of regular employees shall continue only during such period of disability.

(5) The death of an employee shall not authorize an appointment without examination in cities of the second class.

(6) Whenever, from any cause, there shall be a vacancy in any of the classified services, the employee in said classification ranking next highest in seniority, if he chooses, shall succeed to and fill said vacancy, unless upon charges made by the city that said employee is not qualified to fill said vacancy, and after notice and upon trial to determine his qualifications in the same manner as is now required for the dismissal, suspension or reduction in grade or pay of an employee, it be established by the city that said employee has not the necessary qualifications to enable him to discharge the duties of the office or position in which the said vacancy occurs. Provided that in case of a vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory evidence that for reasons stated in writing by the appointing authority, competitive examination in such case has failed to provide an eligible list; the commission may suspend the provisions requiring competitive examination under civil service.

(7) Where the service to be rendered by an appointee in the classified service is for a temporary period not to exceed thirty (30) days in cities of the second class, or sixty (60) days in cities of the third class, and the need of such service is imperative, the appointing authority may select for that temporary service any person on the list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

(8) No person shall be certified by the commission from an eligible list more than four (4) times to the same appointing authority for the same or similar position.

(9) The appointing authority may provide that all appointments for permanent positions be probationary appointments for a period of not more than six (6) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

Section 2. KRS 95.762 is amended to read as follows:

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or fireman, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firemen. Every member of the police or fire department shall be a qualified voter of the city in which appointed, and shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a man of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or fireman and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds, or be unduly active in politics or work for the election of candidates for office.

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.785 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firemen, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firemen, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

(5) The civil service commission may provide that all appointments for permanent positions be probationary appointments for a period of not more than six (6) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

The Committee Amendment to **HB 126** is as follows:

Amend printed copy of House Bill 126, pages 4 and 6, lines 10, 11, and 23, on page 4, line 10 by deleting the "all" and on page 4, line 11 by inserting the "initial" before "permanent", and by deleting the word "positions" and inserting in place thereof "employment may" and on page 6, line 23, by deleting the word "all" and by inserting the word "initial" before permanent, by deleting the word "positions" and inserting in place thereof "employment may"

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds *and an area in a city of the first class to be used as an exhibition center.*"

(b) May erect and repair buildings on the state fair grounds *and exhibition center*, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing *the facilities of the state fair grounds* for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public *and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.*

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it may proceed in the manner provided in KRS 416.115 or in the manner provided in KRS 416.120.

Section 2. KRS 247.150 is amended to read as follows:

The state fair board may arrange with the county judge or the officer that has charge of the police force of any county or city in which the state fair is held, for the proper policing of the state fair grounds, and may arrange with the state for the policing of the state fair grounds by the state police. *The state fair board may arrange with the mayor or the officer that has charge of the police force of any county or city in which the exhibition center is located for the proper policing of the exhibition center, and may arrange with the state for the policing of the exhibition center by the state police.* If the state fair board is unable to arrange with a city, county or state authority for police protection, it may appoint, or may delegate to any agent or employe the power to appoint, subject to the approval of the state fair board, necessary special police to properly police the state fair grounds *and exhibition center*. Such police officers are vested with the powers and charged with the duties of peace officers.

Section 3. KRS 247.160 is amended to read as follows:

(1) The state fair board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place on the state fair grounds *and exhibition center* and may, in the discretion of the board, operate any or all of such concessions, exhibitions, shows, entertainments and attractions, but the board shall not allow the operation of any gambling device or game of chance therein. It may delegate such control or operation to any of its employes or agents, or to an executive committee.

(2) The state fair board shall have a prior lien upon the property of any concessionaire, exhibitor or person, immediately upon its coming or being brought on the grounds, *or the center*, to secure existing or future indebtedness.

(3) Any designated employe or agent of the state fair board may sell the property to satisfy the indebtedness after giving ten (10) days' notice to the owner or agent of the owner or, if notice cannot be given to the owner, after a notice is posted for ten (10) days in the office of the state fair board on the grounds, announcing that the property is to be sold. The state fair board, through its designated agent, may bid and buy in the property offered for sale for the use and benefit of the state fair.

Section 4. KRS 247.165 is amended to read as follows:

None of the provisions of KRS chapter 137 and none of the provisions of KRS 91.200 shall apply to any operations on state fair grounds *or the exhibition center* wherein the state fair board shares in the receipts and proceeds of such operations.

HB 354, AN ACT changing the classification of the city of West Buechel in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of West Buechel in Jefferson County is such to justify its being classified as a city of the fifth class,
NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of West Buechel in Jefferson County is transferred from sixth to the fifth class of cities.

HB 455, AN ACT relating to police judges in cities of the second class.

WHEREAS, it is in the best interest of the public and its general welfare that the holders of judicial office be paid compensation such as to command the dignity and respect for the offices which are essential to the preservation of our system of government; and

WHEREAS, in the light of compensation standards prevailing for other positions in public service in the cities and counties of this state; and

WHEREAS, in considering the increase in the cost of living and decrease in the value of the dollar in the light of *MATTHEWS v. ALLEN*, (1962), Ky., 360 SW 2nd 135, *COMMONWEALTH, ET AL v. HESCH, ET. AL*, (1965), Ky., 395 SW 2nd 362, and, *SARAKATSANNIS, ETC. v. BAKER, ET AL*, (1972), Ky., 488 SW 2nd 683, this legislature finds that the salary increases provided for herein equates current salaries with the purchasing power of the dollar in 1949 when Section 246 of the Constitution was adopted, and, therefore, do not contravene the principle of that section; and

WHEREAS, under the Penal Code previously adopted by this legislature in 1972, which is to become effective July 1, 1974, or thereafter, the duties and jurisdiction over the crimes as provided for therein will substantially increase the duties of judges of lower courts throughout this state;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26.150 is amended to read as follows:

(1) In cities of the second class the police court shall have one judge. He shall receive an annual salary of not more than \$21,000 [\$12,600] to be fixed by ordinance, and no other compensation except the fees allowed to judges for holding examining trials in felony cases. He shall have each year a vacation of one month. No person shall be eligible to be police judge unless at the time of his election he is at least twenty-five years of age and has been a resident of the city for at least four years, and is an attorney at law.

(2) The provisions of this section shall not apply to persons who are serving as police judges on June 16, 1972, and who remain in the present position or who are continuously re-elected to the position without any lapse in service.

HB 410, AN ACT relating to service charges by cities of the first and second classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 82 is created to read as follows:

As used in this act, "state-owned real property" means land and the improvements thereon owned by the Commonwealth of Kentucky, except such property used for educational or recreational purposes, used for public highways, or held for future construction of such highways.

Section 2. A new section of KRS Chapter 82 is created to read as follows:

The legislative body of any city of the first or second class within the commonwealth having state-owned real property within its corporate limits may, by ordinance subject to the requirements of this act, impose and collect an annual service charge against the Commonwealth of Kentucky for municipal services. The service

charge authorized by this section shall be equal to fifty per cent of the city's general tax rate applied to the assessed value of state-owned real property within the city's corporate limits.

Section 3. A new section of KRS Chapter 82 is created to read as follows:

(1) Not later than January 15 of each year, any city passing an ordinance authorized by this act shall value the state-owned real property within its corporate limits in the same manner as it values other real property for ad valorem tax purposes. The value shall be that value as of January 1 of the year in which the valuation is made. Not later than February 1 next following said valuation, the city shall forward a statement to the commissioner of revenue listing the state-owned real property valued, including its location and the purpose for which it is used; the assessed value of said property; and the amount of the service charge computed according to Section 2 of this act.

(2) Not later than April 1 next following his receipt of a city's statement, the commissioner of revenue shall either certify to the department of finance the amount due the city as contained in the city's statement, or shall issue the notification required by subsection (3) of this section.

(3) The commissioner of revenue may, after receiving a city's statement, revise the listing of state-owned property, reassess the value of state-owned property, or recompute the service charge contained therein if, in his judgment, the city's listing, valuation, or computation does not conform to the requirements of this act or is otherwise inaccurate. The commissioner shall notify the city of such revision, revaluation, or recomputation and the reasons therefor.

Section 4. A new section of KRS Chapter 82 is created to read as follows:

(1) Within twenty days after receiving notification of the commissioner's determination under Section 3 of this act, any city aggrieved thereby may secure judicial review of the commissioner's determination by filing a petition for review against the commissioner in Franklin Circuit Court.

(2) The petition for review shall state fully the grounds upon which review is sought. Summons shall issue from the petition directing the commissioner to file answer within twenty days after service thereof. With his answer, the commissioner shall certify and file with the court all documents and papers relating to the controversy, including his findings and determination.

Section 5. A new section of KRS Chapter 82 is created to read as follows:

(1) If the petition for review authorized by Section 4 of this act is not filed within the time specified, the commissioner's determination shall be final and the service charge owed to the city by the commonwealth shall be computed and paid on the basis of his determination, which shall be certified, by him, to the department of finance.

(2) If a city files the petition for review within the time required, the commonwealth shall pay the city filing the petition the lowest amount that the service charge would be, based upon the commissioner's determination or the city's statement, within twenty days after the city files the petition of review. The difference between the amount required to be paid under this section and the final amount of the service charge following judicial review shall, if the final amount is larger, be paid to the city by the commonwealth, or, if the final amount is smaller, be repaid to the commonwealth by the city. The commissioner of revenue shall certify the amount owed to the city, pending judicial review, to the department of finance.

Section 6. A new section of KRS Chapter 82 is created to read as follows:

(1) The circuit court, sitting without a jury, shall hear the case upon the record before it. The court shall be limited to determining:

(a) Whether the city or the commissioner or both acted without or in excess of their authority;

(b) Whether the findings of law and fact support the determination of the commissioner, or the statement submitted by the city, or an amount between that stated or claimed by the city and that determined by the commissioner.

(2) The court shall enter its findings on the order book as an order of the court, and such order shall have the effect and be treated as any other order of the court under KRS 44.020.

Section 7. A new section of KRS Chapter 82 is created to read as follows:

Any party may appeal the judgment of the circuit court to the Court of Appeals as provided in the Rules of Civil Procedure. The Court of Appeals shall be limited to reviewing those matters subject to review by the circuit court and also may review any errors of law arising in the circuit court made reviewable by the Rules of Civil Procedure, when not in conflict with this act.

Section 8. A new section of KRS Chapter 82 is created to read as follows:

Claims against the state treasury for the service charge authorized by and determined according to this act shall be paid by the commonwealth according to the provisions of KRS 44.010-44.030.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.330 is amended to read as follows:

(1) The civil service commission shall examine all applicants as to their physical and mental qualification for the particular classification wherein they seek employment. To be eligible for examination a person must not be less than eighteen (18) nor have passed his or her forty-sixth birthday, a law-abiding citizen of sobriety and integrity, and must be able to read and write and understand the English language; Provided, however, That any present employe who is over forty-five (45) years of age and who is otherwise qualified shall be eligible to take any promotional examinations.

(2) Except for those members whose qualifications are determined under KRS 95.440, no person shall be appointed to a position under civil service until that person is *a resident of the county in which the city is located*. [meets the residency requirements established by the legislative body of that city.]

The Committee on Counties and Special Districts reported **HB 290** and **HB 21**, with Committee Substitute and Committee Amendment No. 1 to the Committee Substitute for **HB 21** attached thereto, and **SB 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 290, AN ACT relating to operating expenses of county sheriff's office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.170 is amended to read as follows:

(1) Each sheriff performing the duties required under the provisions of KRS 70.150 and 70.160 shall be allowed the amount of \$3,600 [\$2100] annually payable out of the state treasury at the rate of \$300 [\$175] per month for such services. The first such monthly payment shall be for the month of July, 1974 [1966], and the check therefor shall be forwarded to the sheriff concerned on or about the last working day of that month and each month thereafter.

(2) The allowance authorized in subsection (1) of this section shall be considered as operating expenses of the sheriff's office and shall not be considered as part of his compensation.

HB 21, AN ACT relating to the offices of county officials, circuit court clerks, and commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 64 is created to read as follows:

As used in this Act, unless the context requires otherwise:

(1) "County officials" shall include the county judge, county attorney, justice of the peace, county commissioner, county court clerk, sheriff, jailer, coroner, and constable;

(2) "County employes" shall include deputies or assistants of county officials and any appointee of the fiscal court; provided that employes of county boards or commissions authorized by law to fix the compensation of their employes shall not be considered county employes under the provisions of this section;

(3) "Board" means the County Officials' Compensation Board; and

(4) "Department" means the Department for Finance and Administration.

Section 2. A new section of KRS Chapter 64 is created to read as follows:

(1) The County Officials' Compensation Board is hereby created and shall consist of the Commissioner of Finance, the State-Local Finance Officer, the president of each of the state associations of circuit court clerks, county court clerks, county judges, county attorneys, magistrates and commissioners, sheriffs, jailers, and coroners, three members of the General Assembly appointed by the Legislative Research Commission, and two citizens of the Commonwealth appointed by the Governor. The legislative members shall be appointed for terms of two years, unless their legislative term expires prior to the expiration of their

term on the Board, in which case a vacancy shall exist. Citizen members shall be appointed for terms of four years. The terms of the members representing the state associations shall be identical to the term of their office as president of the state association. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment. The Commissioner of Finance may, by written order filed with the chairman of the Board, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the Board in his absence. Such designation shall be deemed temporary and shall not affect the merit system or retirement rights of any person so designated.

(2) No salary or other compensation shall be allowed any member of the Board, but each member may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(3) The Board shall select one of its members as chairman and another member as vice-chairman at its first regular meeting in each calendar year. The Commissioner of Finance shall be secretary of the Board and his office shall be responsible for administering the clerical functions of the Board.

(4) The Board shall hold regular meetings at least once every three months. Special meetings may be called by the chairman or by five members of the Board by delivery of a written notice to the office or residence of each member of the Board at least ten days in advance of the date of any special meeting. Eight members of the Board shall constitute a quorum at any meeting. The Board shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings.

(5) The Board may employ and compensate such personnel and consultants as may be necessary to effectuate the provisions of Section 3 of this Act.

Section 3. A new section of KRS Chapter 64 is created to read as follows:

(1) By the fourth Friday in February, beginning February 1975, all county officials and circuit court clerks shall submit a sworn statement of the revenue, expenditures, and excess fees of his office for the preceding calendar year on a form prescribed by the Board.

(2) The Board shall formulate a standard form for the statement required by subsection (1) for each county official and circuit court clerk so that the different sources of revenue of each office are duly noted. The form shall include instructions that the names and salaries of each deputy and assistant appointed by county officials and circuit court clerks be included on the statement.

(3) The Board may at any time submit to any county official or circuit court clerk a written questionnaire concerning the affairs of his office. Every official shall answer fully and completely all questions so propounded and shall return the questionnaire to the chairman within fourteen days.

(4) The Board shall submit a written report to the interim legislative committee having jurisdiction of matters relating to county government and county officials by October 1 of every odd-numbered year and to every regular session of the General Assembly containing recommendations concerning the compensation of county officials and circuit court clerks, including but not limited to the following items:

- (a) Consolidation of the offices of sheriff and jailer in all counties or in certain classes of counties;
- (b) Methods to improve the auditing and accounting systems of county officials and circuit court clerks;
- (c) Means to classify counties, county officials, or circuit court clerks;
- (d) Based on a classification system, salary grades for county officials or circuit court clerks for each class;
- (e) Guidelines for the expenditure of income of the offices of county officials and circuit court clerks;
- (f) Increase, decrease, or abolishment of any state-financed expense account for county officials;
- (g) Establishment of a minimum salary for county officials or circuit court clerks and the amount thereof;
- (h) Increase or decrease in the maximum salary allowed county officials and circuit court clerks and the amount thereof;
- (i) Revision and clarification of fee schedules of county officials and circuit court clerks; and
- (j) Retirement system and benefits for county officials and circuit court clerks.

Section 4. KRS 68.210 is amended to read as follows:

The administration of the county uniform budget system shall be under the supervision of the department of finance, and the department may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and *shall* [may] install, *by January 1975*, a system of uniform accounts for all counties and county officials. It may require all officials of all local governments and local taxing districts to submit such annual financial reports as it may deem proper. It may investigate, examine, and supervise the accounts and operations of all local governments and local government officers. This section does not impose upon or transfer to the department any post audit functions.

Section 5. A new section of KRS Chapter 68 is created to read as follows:

(1) Every county official shall submit a calendar year budget request to the fiscal court no later than the first Monday in February every year, beginning February 1975, consisting of the revenue of his office, including statutory fees, fines, salaries, and expense accounts; and the estimated expenses of his office, including the annual compensation of the elected official, the annual compensation of each of his deputies or

assistants, and necessary office expenses.

(2) By the first Monday in March, beginning March 1975, the fiscal court shall either approve the budgets as submitted or approve the budgets submitted with amendments made by the fiscal court. When reviewing the submitted budget requests, the fiscal court shall:

(a) Not set the annual compensation of a county official lower than the annual compensation of his predecessor;

(b) Allow the county official no fewer than the number of deputies or assistants allowed his predecessor; provided, however, that this paragraph shall not apply to county officials whose offices are consolidated with another office or to county officials in counties whose voters elect to establish an urban county government pursuant to the provisions of KRS Chapter 67A;

(c) Approve all necessary office expenses that are reasonable in amount, beneficial to the public, and not predominantly personal to the official; and

(d) In estimating the revenue of the county's general fund for the budgets of county officials in addition to the revenue of the offices of the county officials, include the percentage of fines and forfeitures retained by the county in accordance with Section 9 of this Act.

(3) The fiscal court may at any time submit to any elected county official a written questionnaire concerning the affairs of his office to ascertain all facts relevant to the determination of the proper allowance to be made with respect to the official's budget request. Every official shall fully and completely answer the questionnaire and shall return it to the fiscal court within five days.

(4) Prior to holding any meeting for the review of the submitted budget requests, the fiscal court shall give five days' written notice of the time, place, and purpose of such meeting to every county official affected.

(5) Every county official shall have the right to appeal the fiscal court's decision regarding his budget request to the circuit court of the county in which he resides within forty-five days from the date of such decision.

(6) The compensation of county officials shall not be changed during the term for which they were elected; but the compensation and number of his deputies or assistants and his office expenses may be reviewed and adjusted by the fiscal court not later than the first Monday in March of any successive year upon the written request of the county official.

Section 6. A new section of KRS Chapter 64 is created to read as follows:

Every year by the first Monday in February, beginning February 1975, each county official and circuit court clerk except the circuit clerk, county clerk, sheriff, and jailer in counties having a population of 75,000 or more, shall submit all excess fees of his office to the fiscal court with a sworn, written statement that the amount submitted is the amount to which the county is legally entitled in accordance with the official's approved budget. All excess fees submitted shall be deposited in the county officials' operating fund by the county treasurer.

Section 7. A new section of KRS Chapter 64 is created to read as follows:

(1) An outgoing county official, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office, and make a complete settlement of his accounts as county official, except as otherwise provided in this section.

(2) Each outgoing county official shall make a final settlement with the fiscal court of his county by March 15 immediately following the expiration of his term of office for all money received by him as county official and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent county official.

(3) The outgoing county official and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt and the incoming county official shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes.

(4) The outgoing county official shall be allowed and paid by the fiscal court the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include his office expenses and salary, and salaries of deputies and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining and verifying the final settlement to the fiscal court.

Section 8. A new section of KRS Chapter 68 is created to read as follows:

In counties having a population less than 75,000, the fiscal court shall establish a fund to be designated and known as the county officials' operating fund for the purpose of maintaining the offices of county officials. The county treasurer shall deposit in the fund fifty per cent (50%) of the fines and forfeitures collected in county, quarterly, and magistrate courts as provided by Section 9 of this Act, and all revenue of the county officials. The county treasurer shall establish and maintain a separate account for each county official for the purpose of recording the revenue and expenditures of each office.

Section 9. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population of 75,000 or more, the fiscal court shall receive fifty-five per cent (55%) of all fines and forfeitures recovered in prosecutions before the county judge or any justice of the peace, except fines provided by KRS Chapter 150 and any other fine due the state which is specifically provided for by law.

(2) In counties having a population less than 75,000, the fiscal court shall receive fifty per cent (50%) of all fines and forfeitures recovered in prosecutions before the county judge or any justice of the peace, except fines provided by KRS Chapter 150 and any other fine due the state which is specifically provided by law, and said fines and forfeitures shall be deposited in the county officials' operating fund in accordance with Section 13 of this Act.

Section 10. A new section of KRS Chapter 68 is created to read as follows:

(1) Any county having a population less than 75,000 may be entitled to receive an advancement for the operation of the county officials' operating fund from the department of finance if sufficient county funds and funds from county officials' offices are not adequate to meet the salaries and expenses as stipulated in the officials' budgets approved by the fiscal court.

(2) To receive an advancement the fiscal court shall submit a written request to the department a copy of which shall be forwarded to the County Officials' Compensation Board containing the approved budgets of the county officials and the accounts of the county officials' operating fund beginning January of the first year of the county officials' term of office up to the month during which the request was made. The commissioner of finance shall determine, based upon the information submitted and based on audits conducted, the amount, if any, that may be advanced to the fiscal court; provided, however, the amount shall not exceed \$10,000 per month. When approved by the commissioner of finance, a warrant shall be drawn on the state treasury in favor of the fiscal court for such advancement.

(3) At the end of each calendar year, the department of finance shall bill the fiscal courts that have received an advancement for the amount received during the calendar year. If the fiscal court has not remitted the amount due the department by the first Monday in February, then the commissioner of finance shall review the county officials' budgets as approved by the fiscal court, the accounts of the county officials' operating fund to determine whether the fiscal court has sufficient funds to repay the advancement. If it is the determination of the commissioner of finance that the fiscal court has sufficient funds to repay the advancement, then he shall direct the Attorney General to institute legal proceedings to recover the amount advanced. If it is the determination of the commissioner of finance that the fiscal court does not have sufficient funds to repay the advancement, then the commissioner shall enter into an agreement with the fiscal court for a schedule of repayment and may limit or prohibit future advancements to the fiscal court.

Section 11. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the clerks of the respective courts thereof, of sheriffs and of jailers and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy five per cent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five per cent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts of the respective counties. The amount of twenty-five per cent (25%) of the fees collected by the officers respectively during each calendar year shall be paid to the fiscal courts of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department of finance. *After payment of the salaries and expenses specified in this subsection, any remaining balance of seventy-five per cent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasury to the fiscal courts of the respective counties.*

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five per cent (75%) of the fees collected by the sheriffs and jailers specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in section 106 of the constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs and jailers shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the department of finance.

Section 12. A new section of KRS Chapter 64 is created to read as follows:

In counties having a population of 75,000 or more:

(1) The budgets of the county clerk, sheriff, and jailer shall be forwarded to the department of finance upon approval of the fiscal court in accordance with Section 5 of this Act.

(2) The county clerk, sheriff, and jailer shall, on the first day of each month, send to the department a statement, including receipts of any fee collected pursuant to Section 13 of this Act, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department the amount so collected or received. The department may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(3) The salary of the county clerk, sheriff, and jailer and their deputies and assistants and their office expenses shall be paid monthly by the state treasurer upon the warrant of the department made payable to the official consistent with the official's budget as approved by the fiscal court. The department shall send the fiscal court a monthly statement of the amount sent to each official. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any such official is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department to any official for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the department by the official during his term of office.

Section 13. A new section of KRS Chapter 64 is created to read as follows:

(1) Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, or fee, prepare a receipt in triplicate for the full amount paid to him in each case, giving the full name and address of the person paying the fine, forfeiture or fee. One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, or fee, one (1) copy shall be retained by the official for his own records, and the other copy shall be retained by the official to be filed either with the county treasurer in accordance with subsection (2) of this section, or in the case of the county clerk, sheriff, and jailer in counties having a population of 75,000 or more, with the department of finance in accordance with Section 10 of this Act.

(2) On or before the tenth of each month, county officials, except the county clerk, sheriff and jailer in counties having a population of 75,000 or more, shall remit the total amounts of fines, forfeitures, and fees collected by him during the preceding month to the county treasurer, except monies collected that are due and payable to the state as provided by law.

(3) County officials, except the county clerk, sheriff, and jailer in counties having a population of 75,000 or more shall, on or before the tenth of each month, submit a daily record sheet of those taxes collected during the preceding month on behalf of the state.

Section 14. KRS 68.010 is amended to read as follows:

(1) The fiscal court of each county, at its regular April term every four (4) years [, beginning with 1913,] shall appoint a county treasurer for a term of four (4) years. If for any reason the county treasurer is not appointed at the April term, the county judge shall call the fiscal court to meet immediately after the adjournment of the term on a day fixed by order entered on the order book of the court, and the meeting shall be held within two (2) weeks after the adjournment of the April term.

(2) No person *shall be* [is] eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, at least twenty-five (25) years old, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. *Any person who is employed by a banking institution or who is an officer of a banking institution shall not be eligible for appointment by the fiscal court as county treasurer.* The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) good sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(3) The fiscal court may remove the county treasurer at any time for neglect of duty, incompetency or dishonesty.

(4) In the case of a vacancy from any cause in the office of county treasurer, the county judge shall call a special term of the fiscal court to fill the vacancy.

(5) *The county treasurer shall be a full-time employe of the fiscal court and the fiscal court shall fix his salary at a rate not less than \$4,200 per annum. The salary of the county treasurer may be paid out of the county officials' operating fund.*

Section 15. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and *issue* receipts for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall hold such money subject to the order of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor.

(2) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against any one (1) having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(3) He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department of finance.

(4) He shall keep his office at the county seat, in a room or rooms provided by the fiscal court. He shall keep his office open for the collection of money at all reasonable times, except on Sundays and legal holidays.

(5) The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge shall call a special term which shall proceed in the manner of the county treasurer.

(6) *The county treasurer shall keep an accurate detailed account of all money received and disbursed by him in accordance with the approved budget as provided for by Section 5 of this Act for the county officials' operating fund, and shall make reports of the county officials' operating fund when directed by the fiscal court or the department of finance.*

(7) *Except those fines provided for by KRS Chapter 150 and any other fine due the state which is specifically provided for by law, the county treasurer in counties having a population less than 75,000 shall attend to the collection of all fines and forfeitures rendered in county, quarterly, and magistrate courts.*

(8) *In counties having a population less than 75,000, the clerks of the county, quarterly, and magistrate courts shall submit a report to the county treasurer listing all fines and forfeitures imposed in his court, except those fines provided for by KRS Chapter 150 and any other fine due the state which is specifically set out by law, on or before the tenth of each month and at the same time shall pay over all such fines and forfeitures collected to the county treasurer.*

Section 16. KRS 43.050 is amended to read as follows:

(1) The auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the general assembly to provide for the independent auditing of the accounts and financial transactions of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records and transactions of the budget units, and the general accounts of the state.

(b) Make a complete *annual* audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state [, when such an audit is demanded in writing by the legislative research commission, the commissioner of finance or the governor, and may make such an audit when it is not so demanded].

(c) Examine annually the management, conduct and condition of all asylums, prisons, feeble-minded and eleemosynary institutions and public works owned, operated or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power, giving special attention to the faithful and economical application of any money appropriated by the state to the institution or public works examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the department of finance, the state treasurer and the superintendent of public instruction, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make such collections.

(f) Make special audits and investigations when required by the governor.

(g) Investigate the means of accounting for, controlling and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(h) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each biennial budget report, and certify in writing the results of such audit and examination with such comments as he deems necessary for the information of the general assembly, his certificate and comments to be included with the statements and estimates as presented in the budget reports.

(i) Report immediately in writing to the governor, each member of the legislative research commission, and the commissioner of finance, any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure or practice is contemplated and any obstruction of the auditor or his agents during the conduct of any audit or investigation of a state agency.

(j) Assist the legislative research commission at hearings and investigations conducted by it and cooperate with the legislative research commission in the preparation of its reports to the general assembly.

(k) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and such accounts as he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of such funds or property in the course of audits provided for in this section.

Section 17. KRS 43.070 is amended to read as follows:

(1) *To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:*

(a) *The funds contained in each county's budget; and*

(b) *The books, accounts, and papers of all county officials and circuit court clerks.* [The auditor shall, once in each year, examine the books, accounts and papers of all county officers receiving or disbursing county funds. The examination shall be made at the same time the auditor makes the examination for the benefit of the state, and the county shall bear one-half (1/2) of the actual expense of the examination.]

(2) *The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph (b) of subsection (1) of this section.* [The county shall bear the actual expenses incurred by the auditor in examining the accounts of county officials to determine if the moneys received by said officials exceed their constitutional or statutory salary limitation.]

(3) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection[s] (1) [and (2)] of this section, the auditor of public accounts shall bill the county for the [actual] expenses incurred pursuant to subsection [(1) and] (2) of this section. A copy of this bill shall be forwarded to the commissioner of finance. If the amount billed has not been paid within ninety (90) days from date of billing, the auditor shall notify the commissioner of finance and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 and 431.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to [subsections (1), (2) and (3) of] this section shall be credited to the trust and agency account of the auditor of public accounts.

(4) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted to the commissioner of finance and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 18. KRS 43.080 is amended to read as follows:

(1) The auditor and his authorized agents shall have access to and may examine all books, accounts, reports, vouchers, correspondence, files, records, money and property of any state agency. Every officer or employe of any such agency having such records or property in his possession or under his control shall permit access to and examination of them upon the request of the auditor or any agency authorized by him to make such request.

(2) The auditor and his assistants shall have access at all times to the papers, books and records of the asylums, prisons, feeble-minded and eleemosynary institutions, and public words that he is authorized to examine, and of any county *official and circuit court clerk* [officer who receives or disburses county funds].

(3) The auditor may require information on oath from any person touching any matters relative to any account that the auditor is required to state, audit or settle. The auditor may administer the oath himself, or have it done by any officer authorized to administer an oath.

(4) The auditor and his assistants may issue process and compel the attendance of witnesses before them, and administer oaths and compel witnesses to testify in any of the investigations the auditor is authorized to make.

Section 19. KRS 43.090 is amended to read as follows:

(1) Immediately upon completion of each audit and investigation, except those provided for in KRS 43.070, the auditor shall prepare a report of his findings and recommendations. He shall furnish one (1) copy of the report to the head of the agency to which the report pertains, one (1) copy to the governor, one (1) copy to the commissioner of finance, and one (1) copy to the state librarian. He shall prepare and transmit to each

member of the general assembly, by December 15 immediately preceding the convening of each regular session of the general assembly, a printed report of his activities, summarizing the findings and recommendations in his report on each audit or investigation made since the last preceding biennial report to the general assembly, and presenting such other findings and recommendations as he sees fit to make. He shall file a copy of this report with the governor and five (5) copies with the state librarian. All audit reports shall be public documents to which taxpayers shall have access.

(2) The auditor shall, within a reasonable time after the examination of each county as provided in KRS 43.070, make a written report to the governor, *the general assembly, the attorney general, the County Officials' Compensation Board*, the state librarian and to the *fiscal court and county attorney* [county judge] of the county examined, calling attention in specific terms to any mismanagement, misconduct, misapplication or illegal appropriation or extravagant use of money received or disbursed by any officer of the county examined. *In addition, said report shall be sent to a newspaper having general circulation in the county examined and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.*

Section 20. A new section of KRS Chapter 43 is created to read as follows:

(1) The auditor shall collect any amount due the county from county officials and circuit court clerks following an audit of the official as prescribed by paragraph (b) of subsection (1) of Section 17 of this Act if the amount can be collected without suit. Upon collection the auditor shall transmit the amount to the county treasurer of the county.

(2) In the event the auditor cannot collect the amount due the county from the county official or circuit court clerk without suit, the auditor shall report the facts and amount involved to the fiscal court of the county. The fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the auditor to be due the county within ninety (90) days from the date of receiving the auditor's report.

(3) In the event the fiscal court fails or refuses to have suit instituted by the county attorney as prescribed by subsection (2) of this section, the auditor shall appoint an attorney to institute suit for the recovery of money due the county. The county shall bear the actual expenses incurred in the suit instituted by the auditor on behalf of the county and the auditor shall bill the county in the manner prescribed by subsections (3) and (4) of Section 17 of this Act.

Section 21. KRS 64.540 is amended to read as follows:

The fiscal court of any county is authorized to have an annual audit made of the accounts of any county *official* [officer] or *county* employe [, within the meaning of KRS 64.530, who is compensated in whole or in part by fees, except those officers enumerated in subsection (2) of KRS 64.530].

Section 22. KRS 64.345 is amended to read as follows:

(1) The circuit clerk, county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of \$12,600.

(2) The amount, if any, allowed for the necessary office expenses of *circuit clerks in counties having a population of 75,000 or more* [each officer] shall be fixed by an order entered upon the order book of the circuit court and county court, and signed by the judges or a majority thereof of the courts. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each *circuit clerk in counties having a population of 75,000 or more* [officer] shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each *circuit clerk in counties having a population of 75,000 or more* [officer] and his deputies and assistants and his office expenses, shall be paid monthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) The number of deputies and assistants allowed [to] each *circuit clerk in counties having a population of 75,000 or more* [officer] and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and county court and signed by the judges or a majority thereof of those courts. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

Section 23. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population less than 75,000, each circuit court clerk shall, on the first Monday of each month, beginning January 1974, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and the expenditures of his office the preceding month. The department of finance may extend the time for filing the statement for a period not exceeding ten (10) days in any month.

(2) Each circuit clerk shall be paid each month, beginning July 1974, one-twelfth (1/12) of five per cent (5%) of the total fines and forfeitures recovered in the county, quarterly, and magistrate courts of his county during the fiscal year 1973-1974, by the state treasurer upon the warrant of the department made payable to the circuit clerk.

(3) The department shall compile a uniform statement to be used by each circuit clerk in counties having a population less than 75,000 when filing a statement with the department in accordance with subsection (1) of this section.

Section 24. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population of 75,000 or more, the circuit court clerk shall be entitled to five per cent (5%) of all funds forwarded to the department of finance pursuant to subsection (1) of Section 25 of this Act and five per cent (5%) of the funds disbursed by him to jurors pursuant to Section 26 of this Act.

(2) In counties having a population less than 75,000, the circuit court clerk shall be entitled to five per cent (5%) of all funds forwarded to the department of finance pursuant to subsection (2) of Section 25 of this Act and five per cent (5%) of the funds disbursed by him to jurors pursuant to Section 26 of this Act.

Section 25. KRS 28.170 is amended to read as follows:

(1) The circuit clerk in *counties having a population of 75,000 or more* [each county] shall attend to the collection of all fines and forfeitures. *In counties having a population of 75,000 or more*, the clerk of each court having jurisdiction to impose fines in favor of the state shall, not later than the close of the last day of each regular term of circuit court, submit a report to the circuit clerk listing all fines and forfeitures imposed in his court subsequent to the last preceding term of circuit court, and at the same time shall pay over all fines and forfeitures collected to the circuit clerk. The circuit clerk shall, within thirty (30) days after the last day of each regular term of circuit court, submit to the department of finance a report listing all such fines and forfeitures, in addition to any fines and forfeitures collected in the circuit court, and shall pay over to the department of finance, at the same time, all fines and forfeitures so reported.

(2) *The circuit clerk in counties having a population less than 75,000 shall attend to the collection of all fines and forfeitures rendered in the circuit court, all fines due to fish and wildlife violations in accordance with KRS 150.160, and any other fine due the state which is specifically set out by law. In counties having a population less than 75,000, the clerk of each court having the jurisdiction to impose fines due to fish and wildlife violations in accordance with KRS Chapter 150 and any other fine due the state which is specifically provided for by law, shall not later than the close of the last day of each regular term of circuit court, submit a report to the circuit clerk listing all such fines and forfeitures subsequent to the last preceding term of circuit court, and at the same time shall pay over all such fines and forfeitures to the circuit clerk. The circuit clerk shall, within thirty (30) days after the last day of each regular term of circuit court, submit to the department of finance a report listing all such fines and forfeitures, in addition to any fines and forfeitures collected in the circuit court, and shall pay over to the department of finance, at the same time, all fines and forfeitures so reported.*

(3)[(2)]. Upon the failure of any of the courts within a county to submit to the circuit clerk, by the close of the last day of the related term of circuit court, the required report and to pay over, at the same time, the fines and forfeitures collected, the circuit clerk shall immediately notify the department of finance, and the department of finance shall then notify the auditor of public accounts that the court concerned is delinquent in the matter.

(4)[(3)]. Upon the failure of the circuit court to submit to the department of finance, within the prescribed thirty (30) days, the required report and to pay over, at the same time, the fines and forfeitures collected, the department of finance shall immediately notify the auditor of public accounts that the clerk concerned is delinquent in the matter.

(5)[(4)]. The department of finance may, upon written request postmarked or delivered within the said prescribed thirty (30) day period, for good cause satisfactory to the department, grant a reasonable extension of the time within which the report is to be made or the fines and forfeitures are to be paid over.

Section 26. KRS 28.180 is amended to read as follows:

(1)] Each circuit clerk shall pay to each juror and each jury commissioner the compensation allowed to him by law, under appropriations provided by the general assembly and in accordance with procedures governing expenditures from appropriations. He shall take a receipt for each payment made by him showing the date on which payment is made. For the purpose of providing for such payments, the state treasurer, on direction of the department of finance, shall advance to each circuit clerk an imprest fund sufficient for the payments for a term of court or, if the court is one of continuous session, sufficient for the period of services

of each grant or petit jury panel, or both, but not to exceed a period of sixty (60) days.

[(2) The circuit court clerk shall be allowed five per cent (5%) of all funds forwarded to the state treasury under KRS 28.170, and an amount equal to five per cent (5%) of the funds disbursed by him under this section.]

Section 27. KRS 64.510 is amended to read as follows:

Each commonwealth's attorney shall receive an annual salary of \$12,600 to be paid monthly out of the state treasury [(1) The maximum compensation that may be received by a commonwealth's attorney out of the state treasury, including the annual salary and the percentage of fines and forfeitures provided for in subsection (2) of this section, shall not exceed \$9,600] and the amount provided by KRS 64.515.

[(2) Each commonwealth's attorney shall receive an annual salary of \$1,200 to be paid out of the state treasury. In addition thereto and in lieu of all taxed fees and perquisites, he shall be allowed the sum of \$8,400 a year out of the fines and forfeitures rendered in his district, to be paid monthly out of the fines and forfeitures collected and paid into the state treasury each month. Except as provided in KRS 150.160, he shall receive forty per cent (40%) of all fines and forfeitures recovered in prosecutions before any county judge or magistrate and all of the fines and forfeitures rendered in circuit court except that part now allowed the circuit clerk and the county attorney. When the fines and forfeitures rendered in favor of the commonwealth in the several courts in his district in any year are not sufficient to allow him \$8,400 and in the succeeding year they are sufficient to exceed that amount, he shall be paid out of the excess, if sufficient, the sum necessary to bring his compensation from fines and forfeitures for the preceding year to \$8,400. In no case shall he receive more than the maximum allowed under subsection (1) of this section.]

[(3) Counties shall have the same authority to allow and pay additional compensation to the commonwealth's attorney as is conferred by KRS 64.500 with respect to circuit judges, within the constitutional limit on the compensation of officers whose jurisdiction or duties are co-extensive with the commonwealth.]

Section 28. KRS 64.515 is amended to read as follows:

(1) *Each commonwealth's attorney of the state shall be entitled to a monthly maximum sum of \$250 to be paid out of the revolving fund created by KRS 142.030 for the expenses incidental to the discharge of his official duties for which no other provisions for payment have been made.*

(2) *Each commonwealth's attorney shall submit to the department of finance an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of \$2.00, before the department shall reimburse said commonwealth's attorney for such expenses. KRS 45.180 and all other laws or regulations relating to travel and other expenses shall be applicable to the expense allowance of commonwealth's attorneys.*

[Each commonwealth's attorney of the state shall be paid out of the state treasury, each month, the sum of five hundred dollars (\$500), which sum is hereby declared to be the equivalent of the minimum sum that each commonwealth's attorney will expend each month, in the performance of his official duties, for postage, telephone service, supplies, stationery, books and periodicals, and such other items of expense as he deems necessary. The expenses herein provided for shall be paid out of the revolving fund created by KRS 142.030. The sums so received shall be expended by each commonwealth's attorney in his discretion, the manner in which the same shall be applied in payment or reimbursement of such expenses being determined by such officer.]

Section 29. A new section of KRS Chapter 64 is created to read as follows:

The pro tem commonwealth's attorney appointed under KRS 69.060 shall be paid out of the state treasury on certificate of the circuit court clerk upon the order of the circuit judge allowing the person appointed \$50.00 per day.

Section 30. KRS 64.518 is amended to read as follows:

(1) In counties having a population of 200,000 or more:

(a) The first and second assistant commonwealth's attorneys appointed under KRS 69.070(1) shall each receive an annual salary of not less than \$5,000. *The third assistant commonwealth's attorney appointed under KRS 69.070(1) shall receive an annual salary of not less than \$4,000. The assistant commonwealth's attorneys appointed under KRS 69.070(2) shall each receive an annual salary of not less than \$4,800.* [One (1) assistant commonwealth's attorney shall receive an annual salary of not less than \$4,000 and other assistant commonwealth's attorneys appointed under KRS 69.070 shall each receive an annual salary of not less than \$4,800.] The salaries in this subsection shall be fixed by the fiscal court in the county and none shall exceed the total compensation of the commonwealth's attorney.

(b) The stenographers appointed under KRS 69.100 shall each receive an annual salary of not less than \$2,700. The stenographer appointed to perform the duties of record clerk shall receive an annual salary of not less than \$3,600.

(2) The salaries described in subsection (1) of this section shall be paid in equal monthly instalments out of the county levy. Such salaries may be increased by the fiscal court in accordance with KRS 64.520.

[(3) In judicial districts composed of one (1) county containing a city of the second class and having a population of less than 200,000, the assistant commonwealth's attorney shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.]

Section 31. A new section of KRS Chapter 64 is created to read as follows:

(1) In any judicial district composed of only one (1) county containing a city of the second class and having a population of less than 200,000, the assistant commonwealth's attorney appointed under KRS 69.095 shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.

(2) In counties containing a population of 40,000 or more but not containing a city of the second class, the assistant commonwealth's attorney appointed under KRS 69.055 shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.

Section 32. KRS 64.520 is amended to read as follows:

(1) In any judicial district composed of only one (1) county, the assistant commonwealth's attorney and the stenographers and district detectives for the commonwealth's attorney, provided for by law, shall receive such compensation, payable out of the county treasury, as is fixed by the fiscal court, subject to KRS 64.518, [and] 64.525, *and Sections 31 and 34 of this Act.*

(2) In any judicial district composed of more than one (1) county, for which an assistant commonwealth's attorney, stenographer or district detective for the commonwealth's attorney is provided for by law, the fiscal courts of the several counties shall, by joint action, exercise the powers conferred by this section upon the fiscal courts of single county districts with respect to fixing compensation, and such compensation shall be paid out of the county treasuries of the respective counties in proportion to the amount of work attributable to each county, the proportion being certified by the commonwealth's attorney.

Section 33. KRS 64.525 is amended to read as follows:

(1) In counties having a population of 125,000 or more, the district detectives appointed under KRS 69.110 shall each receive an annual salary of not less than \$6,000.

(2) In counties containing a city of the second class, the district detective appointed under KRS 69.110 shall receive an annual salary of not less than \$7,200 nor more than \$9,600.

(3) In counties containing a population of 40,000 or more but not containing a city of the second class, the district detective appointed under KRS 69.110 shall receive an annual salary of not less than \$5,000.

(4) *In judicial districts composed of three (3) or more counties and containing a city of the third class, the district detective appointed under KRS 69.110 shall receive an annual salary not to exceed \$7,500.*

(5) *In all judicial districts not covered by subsections (1) to (4) above, the salary of a district detective appointed under KRS 69.110(7) shall be the same as provided in subsection (4) of this section.*

(6)[(4)] The salaries described in subsections (1) to (5) [(3)] of this section shall be paid in equal monthly instalments out of the county levy *in accordance with KRS 64.520.* Such salaries may be increased by the fiscal court in accordance with KRS 64.520.

(7)[(5)] In counties containing a city of the first class the fiscal court may authorize the payment out of the county treasury of sums sufficient to reimburse the district detectives for expenses incurred for gasoline and motor oil used in the performance of their official duties, and may prescribe the amount, manner and conditions of payment.

Section 34. A new section of KRS Chapter 64 is created to read as follows:

In counties containing a city of the second class, the stenographer appointed by the commonwealth's attorney under KRS 69.105 may receive an annual salary to be fixed and paid by the fiscal court out of the county levy in equal monthly instalments.

Section 35. KRS 69.055 is amended to read as follows:

In counties containing a population of 40,000 or more persons but not containing a city of the second class, the commonwealth's attorney may, if the fiscal court concurs therein, appoint an assistant commonwealth's attorney having a term of four (4) years subject to removal at any time by the commonwealth's attorney. [Such assistant commonwealth's attorney may receive an annual salary, payable in equal monthly instalments out of the county levy, the annual salary to be set by the fiscal court, within the limits and in accordance with KRS 64.530, at not less than \$4,000 per year not more than \$6,000 per year.]

Section 36. KRS 69.060 is amended to read as follows:

If the commonwealth's attorney is absent at any term or part of a term of a circuit court, the circuit judge may appoint a suitable attorney to act as commonwealth's attorney during his absence. [The judge shall enter an order allowing the person appointed seven dollars (\$7.00) per day, to be paid out of the state treasury on certificate of the circuit court clerk. In addition the pro tem attorney, shall have one-half (1/2) the per centum allowed the commonwealth's attorney.] The judge shall not appoint an attorney to act in the place of the commonwealth's attorney unless he and the county attorney are both absent, or are related to or counsel for the accused, except that in cases of felony the judge may appoint a pro tem commonwealth's

attorney even though the county attorney is present and not disqualified.

Section 37. KRS 69.070 is amended to read as follows:

(1) In counties having a population of 200,000 or more the commonwealth's attorney shall appoint a first, second and third assistant commonwealth's attorney for terms of four (4) years each, but they may be removed at any time by the commonwealth's attorney. *The salaries of the first, second, and third assistants shall be set by the fiscal court in accordance with KRS 64.518.*

(2) In such counties where there are two (2) or more criminal divisions of the circuit court, the commonwealth's attorney may appoint, in addition to a first, second and third assistant commonwealth's attorney, such other assistant commonwealth's attorneys, not to exceed ten (10) or a total of thirteen (13) assistant commonwealth's attorneys as the commonwealth's attorney may deem necessary, one (1) of whom shall act as secretary to the grand jury. *The salaries of the assistant commonwealth's attorneys appointed under the provisions of this subsection shall be set by the fiscal court in accordance with subsection (1) of Section 30 of this Act.*

Section 38. KRS 69.095 is amended to read as follows:

[(1)] In any judicial district composed of only one (1) county containing a city of the second class, and having a population of less than 200,000, the commonwealth's attorney may appoint an assistant commonwealth's attorney for a term of four (4) years subject to removal at any time by the commonwealth's attorney. [He shall receive an annual salary of not less than \$4,000, nor more than \$6,000, to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.] [(2)] The qualifications and duties of such assistant commonwealth's attorney shall be the same as those set forth in KRS 69.080.

Section 39. KRS 69.105 is amended to read as follows:

In counties containing a city of the second class, the commonwealth's attorney may appoint a stenographer for a term of four (4) years, subject to removal at any time by the commonwealth's attorney. The stenographer shall do stenographic work for the commonwealth's attorney, and shall have the same power of administering an oath as a notary public. [The stenographer may receive an annual salary to be fixed and paid by the fiscal court out of the county levy in equal monthly instalments. In judicial districts which contain one or more other counties in addition to the county containing a city of the second class, each county shall pay a proportionate part of the salary of the stenographer, in proportion to the amount of work attributable to each county, the proportion being certified by the commonwealth's attorney; and provided same is approved by the fiscal courts of such counties.]

Section 40. KRS 69.110 is amended to read as follows:

(1) In counties having a population of 150,000 or more the commonwealth's attorney shall appoint seven (7) district detectives for a term of four (4) years subject to removal at any time by the commonwealth's attorney.

(2) In counties having a population of 125,000 or more the commonwealth's attorney may appoint four (4) district detectives for a term of four (4) years subject to removal at any time by the commonwealth's attorney, subject to the approval of the fiscal court.

(3) In counties containing a city of the second class the commonwealth's attorney shall appoint a district detective for a term of four (4) years subject to removal at any time by the commonwealth's attorney.

[(4)][(5)] In counties containing a population of 40,000 or more persons but not containing a city of the second class, the commonwealth's attorney may, if the fiscal court concurs therein, appoint a district detective having a term of four (4) years subject to removal at any time by the commonwealth's attorney.

[(5)][(6)] In districts composed of three (3) or more counties and containing a city of the third class, the commonwealth's attorney may appoint a district detective having a term of four (4) years subject to removal at any time by the commonwealth's attorney. [Such district detective may receive an annual salary not to exceed \$7,500, to be paid by the fiscal courts of the district in such manner as they may agree.]

[(6)][(7)] In all districts not covered by subsections (1) to (5) [(6)] above, the commonwealth's attorney may appoint one (1) district detective subject to the same [salary and] tenure provisions as subsection (5) [(6)] above.

[(7)][(4)] The detectives appointed pursuant to this section shall have the same power of arrest and right to execute process as sheriffs have. They shall assist the commonwealth's attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in circuit court by investigating the evidence and facts connected with such cases.

Section 41. A new section of KRS Chapter 64 is created to read as follows:

(1) Each county judge of the state shall be entitled to a monthly maximum sum of \$200 to be paid out of the revolving fund created by KRS 25.320, for the expenses incidental to the discharge of his official duties for which no other provisions for payment have been made.

(2) Each county judge shall submit to the department of finance an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of \$2.00, before the department shall reimburse said county judge for such expenses. KRS 45.180 and all other laws and regulations relating to travel and other expenses of state employees shall be applicable to the expense allowance of county judges.

Section 42. KRS 25.320 is amended to read as follows:

(1) A revolving fund is established and designated as the county judge expense allowance fund. The money paid into the state treasury under KRS 453.030 shall be credited to this fund. For the purposes of KRS 45.140 the commissioner of finance is head of the budget unit in relation to this fund.

(2) The purpose of the fund is to provide a source from which payments may be made to county judges to defray or partly defray the expenses of maintaining their offices.

(3) Any surplus in excess of \$45,000 accumulated to the county judges' expense allowance fund at the close of any fiscal year, beginning with the close of the fiscal year 1973-1974, [in the fund at the end of a fiscal year] shall be transferred to the general fund.

Section 43. A new section of KRS Chapter 64 is created to read as follows:

(1) Except as provided in KRS 150.160, in counties having a population of 75,000 or more, county attorneys shall receive:

(a) Forty per cent (40%) of all fines and forfeitures recovered in prosecutions before a county judge or magistrate;

(b) Twenty-five per cent (25%) of the fines and forfeitures recovered in favor of the commonwealth in circuit court in those cases in which he is present and assists in prosecuting; and

(c) Thirty per cent (30%) of the fines and forfeitures recovered in favor of the commonwealth before a police judge in those cases in which he is present and prosecutes.

(2) Except as provided in KRS 150.160, in counties having a population of less than 75,000, county attorneys shall receive:

(a) Fifty per cent (50%) of all fines and forfeitures recovered in favor of the commonwealth before a county judge or magistrate; and

(b) Thirty per cent (30%) of the fines and forfeitures recovered in favor of the commonwealth before a police judge in those cases in which he is present and prosecutes.

(3) The percentage allowed the county attorney is in lieu of all taxed fees and prerequisites except that when a fine or forfeiture recovered in a police court is less than ten dollars (\$10.00) he shall be allowed a fee of five dollars (\$5.00) to be taxed as costs, and when a fine or forfeiture recovered before a county judge or magistrate or in a circuit court is less than twenty-five dollars (\$25.00) he shall be allowed a fee of five dollars (\$5.00) to be taxed as costs.

(4) County attorneys shall not receive any percentage except upon fines and forfeitures that have been collected and paid into the state or county treasury unless the commonwealth's portion thereof is remitted by the governor.

Section 44. A new section of KRS Chapter 64 is created to read as follows:

(1) Each county attorney of the state shall be entitled to a monthly maximum sum of \$250 to be paid out of the revolving fund created by KRS 142.040, for the expenses incidental to the discharge of his official duties for which no other provisions for payment have been made.

(2) Each county attorney shall submit to the department of finance an itemized statement of such expenses, accompanied by a receipt for each item of expense in excess of \$2.00, before the department shall reimburse said county attorney for such expenses. KRS 45.180 and all other laws and regulations relating to travel and other expenses of state employees shall be applicable to the expense allowance of county attorneys.

Section 45. KRS 64.150 is amended to read as follows:

(1) Jailers shall be paid out of the county treasury, except as provided in subsection (2) of this section, the following fees for the following services:

Attending county and quarterly court per day

(jailer shall be paid the fee
for each day the court is in
session)-----\$6.00

Furnishing fuel and lights to county
and quarterly court, except as
provided in KRS 67.150, a
reasonable compensation, not
exceeding, per day-----\$2.00

Putting a prisoner in irons, for
an offense other than a
felony or contempt besides
the cost of irons-----\$.50

Keeping and dieting prisoners in
jail when confined for an
offense other than a felony
or contempt of court,

per day-----2.00[\$3.50]

Imprisoning and releasing a
prisoner charged with a
misdemeanor-----\$.75

(2) Where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine, the fees for keeping and dieting the prisoner and for imprisoning and releasing shall be paid by such city.

(3) Jailers shall be paid out of the state treasury the following fees for the following services:

Imprisoning and releasing a prisoner
charged with a felony or
contempt-----\$.75

Keeping and dieting a prisoner
charged with a felony or
contempt, per day-----2.00[\$3.50]

Putting a prisoner charged with a
felony or contempt in irons,
to secure his safekeeping in
the jail, besides the cost of
the irons-----\$.50

Each day's attendance upon the
circuit court-----\$6.00

Furnishing fuel, light, and water
to the circuit court, not
exceeding, per day-----\$2.00

Imprisoning and releasing a prisoner for violation of his probation
or parole; Provided, however, the state granting probation or
parole has executed a compact with the commonwealth in accordance
with KRS 439.560. The fees shall be the same as those charged
for felony and contempt.

(4) For all other services performed by the jailer, he shall receive the same fees paid to sheriffs for like services.

(5) *In the event a court of a county sends a prisoner to a jail of another county, then the county treasurer of the county from which the prisoner was sent shall pay the treasurer of the holding county any fees to which the jailer of the holding county is entitled to by law. [The county treasurer of any county from which a prisoner is sent to another county to be held for a court of the former county shall pay to the treasurer of the holding county the sum of four dollars (\$4.00) per day for each day such prisoner is held, which payment shall be in addition to any fees to which the jailer of the holding county is entitled by law.]*

Section 46. A new section of KRS Chapter 68 is created to read as follows:

The fiscal court of every county shall establish a fund to be designated and known as the prisoners' dieting account for the purpose of guaranteeing each prisoner confined in the county jail an adequate diet and shall authorize the direct payment of \$2.00 per day for each prisoner confined in the county jail to the prisoners' dieting account.

Section 47. A new section of KRS Chapter 64 is created to read as follows:

(1) The county treasurer shall be paid \$2.00 per day out of the state treasury for each prisoner charged with a felony or contempt of court who is confined in the county jail.

(2) The county treasurer shall be paid \$2.00 per day out of the city treasury for each prisoner confined in the county jail for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine.

(3) In the event a court of a county sends a prisoner to a jail of another county, then the county treasurer of the county from which the prisoner was sent shall pay the treasurer of the holding county \$2.00 per day for each prisoner sent.

(4) The county treasurer shall credit \$2.00 per day to the prisoners' dieting account out of the general fund of the county for each prisoner confined in the county jail for the purpose of furnishing each prisoner an adequate diet.

(5) The jailer shall send a weekly itemized bill of the food purchased for prisoners confined in the county jail to the county treasurer who shall then debit the prisoners' dieting account to the extent of the bill submitted by the jailer and shall reimburse the jailer for that amount.

(6) If the prisoners' dieting account is not adequate to pay the food bills submitted by the jailer, then the fiscal court shall investigate the food bills submitted. If the fiscal court determines that the charges are reasonable, then the fiscal court shall make additional credits to the account to cover the bills or a portion thereof submitted by the jailer. If the fiscal court determines that the jailer made an unreasonable charge, an

illegal charge, or an overcharge, then the fiscal court shall not make additional credits to the account and the jailer shall be liable for the charge.

(7) At the end of each fiscal year, funds remaining in the prisoners' dieting account shall lapse and shall revert to the county's general fund.

Section 48. KRS 64.530 is amended to read as follows:

[(1) Except as provided in subsections (6) and (7) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535.]

(1)[(2)] The county attorney of each county shall receive a reasonable annual salary to be fixed by the fiscal court. In addition to such salary, the county attorney shall also be entitled to the statutory fees of his office, but his annual salary as fixed by the fiscal court plus the fees of his office shall not exceed \$12,600.

[(3) For the purposes of this section, master commissioners and receivers in counties other than those containing a population of 75,000 or more, and justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.]

[(4) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, except as provided in subsection (8), the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.]

[(5) In the case of county officers elected by popular vote, the annual compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.]

[(6) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, master commissioner or receiver, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.]

(2)[(7)] Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred and fifteen dollars (\$215) per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed \$8,000 per year; in counties containing cities of the second class it shall not exceed \$7,500 per year and in counties containing cities of the third or fourth class it shall not exceed twenty per cent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding June 16, 1972, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285, shall be effective as to any member of a fiscal court during his term of office.

(3)[(8)] Circuit court clerks in counties other than those containing a population of 75,000 or more shall receive as compensation per year the maximum compensation allowed by law for circuit court clerks of this commonwealth, if fees or funds for this purpose are sufficient. The first and second deputies shall be allowed to receive a salary not to exceed \$8,400 per year; and other deputies shall be allowed to receive a salary not to exceed \$6,600 per year. Each circuit clerk shall be allowed to fix the amount of the salary of each of his deputy clerks.

(4) *The salaries of deputies and assistants of county officials shall be fixed at an amount no greater than \$9,600 per annum.*

Section 49. KRS 64.258 is amended to read as follows:

(1) *Upon the order of the fiscal court, each justice of the peace or magistrate within a county may be entitled to a sum of not more than \$100 per month, to be paid out of the county officials' operating fund, for the expenses incidental to the discharge of his official duties.* [The fiscal court of any county may pay to each justice of the peace or magistrate within the county a sum not to exceed \$100 per month in order to assist with the expenses of his office.] This sum shall not be considered as salary within the meaning of KRS 64.255.

(2) *Before the county treasurer shall reimburse a justice of the peace or magistrate for expenses, said justice of the peace or magistrate shall submit an itemized statement of expenses, accompanied by a receipt for each item of expense in excess of \$2.00 or in the case of automobile mileage expenses accompanied by a documented travel log. [The amounts paid to each justice of the peace or magistrate within the county shall be equal. No justice or magistrate shall be compensated in a greater or lesser amount than another justice or magistrate.]*

(3) Said amount may be paid by the fiscal court only when the county possesses sufficient [excess] fees in *the county officials' operating fund* [its treasury] to permit such payments. [Payments shall not be made where the funds are not sufficient to pay all of the justices or magistrates.]

Section 50. KRS 26.660 is amended to read as follows:

(1) Justices' courts are courts of record. Each justice shall keep an order book and an execution book, to be paid for by the county. He shall keep in it a full and fair record of his judicial proceedings, and sign it at the end of each term. The book shall be kept properly indexed. Each justice shall give to any person requesting it a certified copy of any record in his custody, and the copy shall be admissible in evidence.

(2) Each justice shall, upon the payment of fines and forfeitures into his court, prepare a receipt in *triplicate* [duplicate] for the full amount paid into his court in each case, giving the full name and post office address of the person paying the fine or forfeiture. One (1) copy of the receipt shall be given to the person paying the fine or forfeiture, *one copy shall be retained by the justice for his own records*, and the other copy shall be retained by the justice to be filed with the circuit court *in counties having a population of 75,000 or more and with the county treasurer in counties having a population of less than 75,000*, when he reports the fines and forfeitures paid into his court. Each receipt in the receipt books shall be numbered consecutively and all must be accounted for. The receipt books shall be paid for by the county.

Section 51. KRS 64.255 is amended to read as follows:

(1) In enacting legislation relating to justices of the peace, it is the intention of the general assembly to enable justices of the peace in counties having a population of less than 250,000 to exercise criminal jurisdiction as set out in KRS 25.101, and to provide [for] compensation for the[ir] performance of the duties [thereby] imposed upon them.

(2) In counties having a population of less than 250,000 each justice of the peace may be exclusively compensated for the performance of the duties of his office, insofar as they relate to the trial or decision of criminal cases, by a salary not to exceed \$1,200 per annum for counties having a population of 20,000 or less; \$2,400 per annum for counties having a population in excess of 20,000 and not exceeding 60,000; \$3,600 per annum for counties having a population in excess of 60,000 and not exceeding 250,000. In counties having a population in excess of 20,000 and not exceeding 60,000, where the justices serve districts averaging 8,000 or more persons per district, each justice of the peace may be compensated by a salary not to exceed \$3,600 per annum. The fiscal court of each county is authorized to fix salaries pursuant to the above restrictions. Salaries shall be paid in equal monthly instalments out of the county treasury.

(3) *In counties having a population more than 75,000, all[all] moneys received or collected in criminal cases on account of or resulting from the performance of the duties or the exercise of the powers incident to the office of justice of the peace, shall be reported and paid in full to the circuit clerk of the county, on or before the tenth of each succeeding month, for proper distribution to the county and state. In counties having a population less than 75,000, all moneys received or collected in criminal cases on account of or resulting from the performance of the duties or the exercise of the powers incident to the office of justice of the peace, shall be reported and paid in full to the county treasurer, on or before the tenth of each succeeding month, for proper distribution to the county.*

Section 52. A new section of KRS Chapter 64 is created to read as follows:

(1) Each sheriff performing the duties required under the provisions of KRS 70.150 and 70.160 shall be allowed the amount of \$2,100 annually payable out of the state treasury at the rate of \$175 per month for such services. The check therefor shall be forwarded to the sheriff concerned on or about the last working day of each month.

(2) The allowance authorized in subsection (1) of this section shall be considered as operating expenses of the sheriff's office and shall not be considered as part of his compensation.

Section 53. KRS 70.030 is amended to read as follows:

The sheriff may, with the approval of the county court, appoint his own deputies, and may revoke the appointment at his pleasure. Before any deputy executes the duties of his office he shall take the oath required to be taken by the sheriff *and his compensation shall be approved by the fiscal court.*

Section 54. KRS 70.320 is amended to read as follows:

(1) The appointment of deputy constables shall be authorized only in counties containing a first or second class city. In such counties each constable may appoint one or more deputies with the consent of the county judge. The constable and his surety are liable on his bond for all the acts and omissions of his deputies.

(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county court entered after filing or a written direction by the constable.

(3) Each deputy constable in counties containing a city of the first *or second* class shall be compensated for his services by salary fixed by the fiscal court, and paid out of the county levy.

Section 55. A new section of KRS Chapter 64 is created to read as follows:

Each county official and circuit court clerk receiving fees as provided by law shall publish and post for public inspection in some conspicuous place in his office a list of those fees charged by his office.

Section 56. A new section of KRS Chapter 64 is created to read as follows:

It shall be unlawful for any county official and circuit court clerk to deposit public funds with individual or private funds in any bank or other depository or for any such official to withdraw public funds for any purpose other than that for which they were received and deposited.

Section 57. A new section of KRS Chapter 64 is created to read as follows:

(1) In any county containing a city of the first class, the members of the fiscal court and any of its employes, the county judge and county attorney and his assistants, when duly authorized by a majority vote of the fiscal court of such county, may attend conferences, meetings, legislative or judicial hearings upon matters pertaining to county government or to the county's business, and the expenses of such attendance shall be borne and paid out of the county levy in the manner provided by such authorization.

(2) Before any such expenses are so paid by the fiscal court, the attendant at any such meeting, conference or hearing shall, within ten (10) days after his return therefrom file with the fiscal court an itemized statement of all expenses incurred by him, and such statement shall be a public record and spread at large upon the minute book of such court.

Section 58. A new section of KRS Chapter 64 is created to read as follows:

Whenever the fiscal court of any county containing a city of the first class is authorized by law to furnish a motor vehicle to any officer or employe of the county, the fiscal court may permit such officer or employe to use his own motor vehicle in the discharge of his official duties, and whenever any such officer or employe incurs any expense incident to traveling in his own motor vehicle, while on official business, the amount allowed for such expense may be fixed by the fiscal court.

Section 59. KRS 25.780 is amended to read as follows:

In each justice's district in counties containing a city of the second class and a population of less than 250,000 the justice of the peace may appoint *upon the approval of the fiscal court* a clerk for a term not to exceed the current term of office of the justice, and any necessary deputy clerks. All clerks and deputy clerks shall receive a salary as determined under *Section 5 of this Act and* [KRS 64.530] paid from the fees received by the justice's court.

Section 60. KRS 64.570 is amended to read as follows:

It is not the intention of KRS 64.480 to 64.760 to make or authorize the making of any change in the compensation of reporters for circuit courts, except that where a salary or per diem payable out of the county treasury is now fixed by law for any such reporter, the fiscal court of the county shall have the [same] power *to authorize, approve, and fix* [with respect to] such salary or per diem [as KRS 64.530 confers upon fiscal courts with respect to county officers and employes].

Section 61. KRS 69.280 is amended to read as follows:

In counties having a population of 250,000 or more the county attorney shall appoint a first and a second assistant county attorney and *any* [the] additional deputies or assistants *authorized by the fiscal court.* [under KRS 64.530.] The first and second assistant attorney shall be appointed for terms of four (4) years subject to removal at any time by the county attorney.

Section 62. KRS 70.570 is amended to read as follows:

The [said] chief, and all other appointees assigned to patrol or police duties are hereby declared to be peace officers and conservators of the public peace whose duties are to conserve the peace, enforce all laws and preserve order and shall have and are hereby given the same right and the same power to arrest, search and seize as is now given by law to sheriffs of this commonwealth, and they shall be at all times subject to the orders of the county court. Provided, however, That the members of said county police force shall not have power to serve subpoenas, summonses and notices in civil cases. The county police force shall constitute a law enforcement agency in addition to the patrol and investigation functions of the sheriff and his deputies under sections KRS 70.150 to 70.160. [70.170.]

Section 63. KRS 72.130 is amended to read as follows:

In counties having a population of 200,000 or more the coroner shall appoint a chief deputy coroner and one (1) other deputy coroner whose duties shall be to keep the books of the office, summon jurors and witnesses for the inquests, and perform any other duties assigned to him by the coroner. The deputy coroners shall have the same power of serving process for the coroner as a deputy sheriff. The deputy coroners shall be appointed for a term of four (4) years and are subject to removal by the coroner at any time. The chief deputy shall receive a salary payable out of the county treasury in equal monthly instalments. The coroner may appoint other deputies and assistants when authorized *by the fiscal court.* [pursuant to KRS 64.530.]

Section 64. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of 75,000 or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed in the county court, and recorded in the order book of the county court in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county court shall be filed with the department of revenue. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes.

(3) Each outgoing sheriff shall make a final settlement with the department of revenue and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) *The fiscal court shall allow and reimburse the outgoing sheriff* [The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530] the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 65. KRS 241.110 is amended to read as follows:

(1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge shall thereupon constitute a county alcoholic beverage control administrator for the county. However, the county judge may decline to accept said office, or after accepting same he may resign therefrom, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, he may thereupon appoint a person at least thirty (30) years of age, who at the time of his appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge as county alcoholic beverage control administrator for such county. Before entering upon his duties as such county alcoholic beverage control administrator appointed by the county judge the appointee shall take the oath prescribed by section 228 of the constitution and execute a bond with a good corporate surety in the penal sum of one thousand dollars (\$1,000). The cost of the bond shall be borne by the county. Upon the qualification of such person as county alcoholic beverage control administrator for such county, he shall immediately notify the board.

(2) The functions of such county alcoholic beverage control administrator, appointed by the county judge, shall be the same as set out in KRS 241.140.

(3) The compensation of such county alcoholic beverage control administrator, appointed by the county judge, shall be fixed by the fiscal court in accordance with *the provisions of KRS Chapters 64 and 68* [KRS 64.530]. The county judge may also appoint such investigators and clerks as are deemed necessary for the proper conduct of such county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court [pursuant to KRS 64.530], and they will serve at the pleasure of the county judge.

(4) No person shall be a county alcoholic beverage control administrator, as herein provided for, an investigator or an employe of the county under the supervision of such county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.

(5) The said county alcoholic beverage control administrator, appointed by the county judge, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of such county and within the corporate limits of any city therein not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge, shall be made pursuant to KRS 241.150.

Section 66. A new section of KRS Chapter 64 is created to read as follows:

In the event the voters of a county elect to establish an urban county form of government as prescribed by KRS Chapter 67A, then the legislative body of that government shall perform the functions and duties of the fiscal court as prescribed by this Act.

Section 67. KRS 64.990 is amended to read as follows:

(1) If any commissioner or receiver to whom KRS 64.270 applies fails to comply with KRS 64.270, he shall be fined not less than \$100 nor more than \$500, and, upon conviction, shall be removed from office.

(2) If any officer to whom the provisions of KRS 64.270 and *Sections 6 or 7 of this Act* applies knowingly omits or fails to report, as required, a correct statement of the amount required to be reported by those sections, or the amount of his office expenses, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, and the judgment of conviction shall be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, and the judgment of conviction shall declare the office vacant.

(3) If any officer to whom KRS 64.050 applies, or his personal representative, trustee or committee, as the case may be, collects any fees, accounts or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims and accounts due to him in his official capacity, he, or his personal representative, committee or trustee, as the case may be, shall be fined not less than \$500 for each offense.

(4) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the department of finance, as required by subsection (1) of KRS 64.050, he shall be fined not less than \$500 for each offense. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years.

(5) If any deputy or personal representative issuing a fee-bill pursuant to KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee-bill, he shall be subject to the same penalties as an officer issuing such a fee-bill.

(6) Every fee-bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.

(7) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee-bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a high misdemeanor and fined not less than \$50.00 nor more than \$200 and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.

(8) *Any official who fails to comply with the provisions of Sections 3, 5, 13, or 55 of this Act, shall be fined not less than \$100 nor more than \$500, and upon conviction shall be removed from office.*

(9) *Any official who violates the provisions of Section 56 shall be fined not less than \$100 nor more than \$500 and upon conviction shall be removed from office.*

Section 67. KRS 25.330, 47.115, 61.380, 61.385, 69.260, 69.265 and 70.170 are repealed.

Section 68. Sections 2, 3, 8, 9, 10, 12, 13, 14, 15, 17, 19, 20, 24, 25, 27, 28, 29, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 55, 56, 59 and 67 shall become effective July 1, 1974.

Section 69. In the event a person holding the office of county treasurer on the effective date of Section 14 of this Act does not meet the requirements of subsection (2) of Section 14, then the person shall forfeit his office and a vacancy shall exist.

The Committee Substitute for **HB 21** is as follows:

HB 21, AN ACT relating to the offices of county officials, circuit court clerks, and commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 64 is created to read as follows:

As used in this Act, unless the context requires otherwise:

(1) "Compensation" shall include the statutory fees and fines of the offices of county officials and circuit court clerks and any money provided to said officers by the fiscal court or by the state treasury as remuneration for the discharge of their official duties; provided, however, that "compensation" shall not include funds provided by the fiscal court or by the state treasury, if any, for office expenses;

(2)[(1)] "County officials" shall include the county judge, county attorney, justice of the peace, county commissioner, county court clerk, sheriff, jailer, coroner, and constable;

(3)[(2)] "County employees" shall include deputies or assistants of county officials and any appointee of the fiscal court; provided that employees of county boards or commissions authorized by law to fix the compensation of their employees shall not be considered county employees under the provisions of this section;

(4)[(3)] "Board" means the County Officials' Compensation Board; and

(5)[(4)] "Department" means the Department of Finance.

Section 2. A new section of KRS Chapter 64 is created to read as follows:

(1) The County Officials' Compensation Board is hereby created and shall consist of the Commissioner of Finance, the State-Local Finance Officer, the president of each of the state associations of circuit court clerks, county court clerks, county judges, county attorneys, magistrates and commissioners, sheriffs, jailers, and coroners, three members of the General Assembly appointed by the Legislative Research Commission, and two citizens of the Commonwealth appointed by the Governor. The legislative members shall be appointed for terms of two years, unless their legislative term expires prior to the expiration of their term on the Board, in which case a vacancy shall exist. Citizen members shall be appointed for terms of four years. The terms of the members representing the state associations shall be identical to the term of their office as president of the state association. Vacancies shall be filled for the unexpired portion of any term in the same manner as an original appointment. The Commissioner of Finance may, by written order filed with the chairman of the Board, designate a deputy or other representative in his department to serve in his stead and to perform his duties as a member of the Board in his absence. Such designation shall be deemed temporary and shall not affect the merit system or retirement rights of any person so designated.

(2) No salary or other compensation shall be allowed any member of the Board, but each member may be reimbursed for actual and necessary expenses incurred in the performance of his official duties.

(3) The Board shall select one of its members as chairman and another member as vice-chairman at its first regular meeting in each calendar year. The Commissioner of Finance shall be secretary of the Board and his office shall be responsible for administering the clerical functions of the Board.

(4) The Board shall hold regular meetings at least once every three months. Special meetings may be called by the chairman or by five members of the Board by delivery of a written notice to the office or residence of each member of the Board at least ten days in advance of the date of any special meeting. Eight members of the Board shall constitute a quorum at any meeting. The Board shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings.

(5) The Board may employ and compensate such personnel and consultants as may be necessary to effectuate the provisions of Section 3 of this Act.

Section 3. A new section of KRS Chapter 64 is created to read as follows:

(1) By the fourth Friday in February, beginning February 1975, all county officials and circuit court clerks shall submit a sworn statement of the revenue, expenditures, and excess fees of his office for the preceding calendar year on a form prescribed by the Board.

(2) The Board shall formulate a standard form for the statement required by subsection (1) for each county official and circuit court clerk so that the different sources of revenue of each office are duly noted. The form shall include instructions that the names and salaries of each deputy and assistant appointed by county officials and circuit court clerks be included on the statement.

(3) The Board may at any time submit to any county official or circuit court clerk a written questionnaire concerning the affairs of his office. Every official shall answer fully and completely all questions so propounded and shall return the questionnaire to the chairman within fourteen days.

(4) The Board shall submit a written report to the interim legislative committee having jurisdiction of matters relating to county government and county officials by October 1 of every odd-numbered year and to every regular session of the General Assembly containing recommendations concerning the compensation of county officials and circuit court clerks, including but not limited to the following items:

(a) Consolidation of the offices of sheriff and jailer in all counties or in certain classes of counties;

- (b) Methods to improve the auditing and accounting systems of county officials and circuit court clerks;
- (c) Means to classify counties, county officials, or circuit court clerks;
- (d) Based on a classification system, salary grades for county officials or circuit court clerks for each class;
- (e) Guidelines for the expenditure of income of the offices of county officials and circuit court clerks;
- (f) Increase, decrease, creation, or abolishment of any state-financed compensation fund or expense account for county officials;
- (g) Establishment of a minimum salary for county officials or circuit court clerks and the amount thereof;
- (h) Increase or decrease in the maximum salary allowed county officials and circuit court clerks and the amount thereof;
- (i) Revision and clarification of fee schedules of county officials and circuit court clerks; and
- (j) Retirement system and benefits for county officials and circuit court clerks.

Section 4. KRS 68.210 is amended to read as follows:

The administration of the county uniform budget system shall be under the supervision of the department of finance, and the department may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and *shall* [may] install, *by January 1975*, a system of uniform accounts for all counties and county officials. It may require all officials of all local governments and local taxing districts to submit such annual financial reports as it may deem proper. It may investigate, examine, and supervise the accounts and operations of all local governments and local government officers. This section does not impose upon or transfer to the department any post audit functions.

Section 5. A new section of KRS Chapter 68 is created to read as follows:

(1) Every county official shall submit a calendar year budget request to the fiscal court no later than the first Monday in February every year, beginning February 1975, consisting of the revenue of his office, including statutory fees, fines, salaries, and expense accounts; and the estimated expenses of his office, including the annual compensation of the elected official, the annual compensation of each of his deputies or assistants, and necessary office expenses.

(2) By the first Monday in March, beginning March 1975, the fiscal court shall either approve the budgets as submitted or approve the budgets submitted with amendments made by the fiscal court. When reviewing the submitted budget requests, the fiscal court shall:

(a) Not set the annual compensation of a county official lower than the annual compensation of his predecessor;

(b) Allow the county official no fewer than the number of deputies or assistants allowed his predecessor; provided, however, that this paragraph shall not apply to county officials whose offices are consolidated with another office or to county officials in counties whose voters elect to establish an urban county government pursuant to the provisions of KRS Chapter 67A;

(c) Allow the county official the full amount of any compensation fund or expense account provided by the state;

(d) Approve all necessary office expenses that are reasonable in amount, beneficial to the public, and not predominantly personal to the official; and

(e) In estimating the revenue of the county's general fund for the budgets of county officials in addition to the revenue of the offices of the county officials, include the percentage of fines and forfeitures retained by the county in accordance with Section 9 of this Act.

(3) The fiscal court may at any time submit to any elected county official a written questionnaire concerning the affairs of his office to ascertain all facts relevant to the determination of the proper allowance to be made with respect to the official's budget request. Every official shall fully and completely answer the questionnaire and shall return it to the fiscal court within five days.

(4) Prior to holding any meeting for the review of the submitted budget requests, the fiscal court shall give five days written notice of the time, place, and purpose of such meeting to every county official affected.

(5) Every county official shall have the right to appeal the fiscal court's decision regarding his budget request to the circuit court of the county in which he resides within forty-five days from the date of such decision.

(6) The compensation of county officials shall not be changed during the term for which they were elected, but the compensation and number of his deputies or assistants and his office expenses may be reviewed and adjusted by the fiscal court not later than the first Monday in March of any successive year upon the written request of the county official.

Section 6. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population less than 75,000:

(a) The circuit court clerk shall be entitled to compensation at a rate no greater than \$15,600 per annum to be paid solely out of the statutory fees and salaries received by him during the calendar year; and

(b) The county court clerk, county judge, sheriff, county attorney, and jailer shall be entitled to compensation at a rate no greater than \$15,600 per annum to be paid out of the county officials' operating fund.

(2) In counties having a population of 75,000 or more, the circuit court clerk, county court clerk, county judge, sheriff, county attorney, and jailer shall be entitled to compensation at a rate no greater than \$17,500 per annum to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 7. A new section of KRS Chapter 64 is created to read as follows:

(1) An outgoing county official, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office, and make a complete settlement of his accounts as county official, except as otherwise provided in this section.

(2) Each outgoing county official shall make a final settlement with the fiscal court of his county by March 15 immediately following the expiration of his term of office for all money received by him as county official and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent county official.

(3) The outgoing county official and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt and the incoming county official shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting of taxes.

(4) The outgoing county official shall be allowed and paid by the fiscal court the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include his office expenses and salary, and salaries of deputies and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining and verifying the final settlement to the fiscal court.

Section 8. A new section of KRS Chapter 68 is created to read as follows:

In counties having a population less than 75,000, the fiscal court shall establish a fund to be designated and known as the county officials' operating fund for the purpose of administering the financial transactions and maintaining the offices of county officials. The county treasurer shall deposit in the fund fifty per cent (50%) of the fines and forfeitures collected in county, quarterly, and magistrate courts as provided by Section 9 of this Act, and all revenue of the county officials. The county treasurer shall establish and maintain a separate account for each county official for the purpose of recording the revenue and expenditures of each office.

Section 9. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population of 75,000 or more, the fiscal court shall receive fifty-five per cent (55%) of all fines and forfeitures recovered in prosecutions before the county judge or any justice of the peace, except fines provided by KRS Chapter 150 and any other fine due the state which is specifically provided for by law.

(2) In counties having a population less than 75,000, the fiscal court shall receive fifty per cent (50%) of all fines and forfeitures recovered in prosecutions before the county judge or any justice of the peace, except fines provided by KRS Chapter 150 and any other fine due the state which is specifically provided by law, and said fines and forfeitures shall be deposited in the county officials' operating fund in accordance with Section 13 of this Act.

Section 10. A new section of KRS Chapter 68 is created to read as follows:

(1) Any county having a population less than 75,000 may be entitled to receive an advancement for the operation of the county officials' operating fund from the department of finance if sufficient county funds and funds from county officials' offices are not adequate to meet the salaries and expenses as stipulated in the officials' budgets approved by the fiscal court.

(2) To receive an advancement the fiscal court shall submit a written request to the department, a copy of which shall be forwarded to the County Officials' Compensation Board, containing the approved budgets of the county officials and the accounts of the county officials' operating fund beginning January of the first year of the county officials' term of office up to the month during which the request was made. The commissioner of finance shall determine, based upon the information submitted and based upon audits conducted, the amount, if any, that may be advanced to the fiscal court; provided, however, the amount shall not exceed \$10,000 per month. When approved by the commissioner of finance, a warrant shall be drawn on the state treasury in favor of the fiscal court for such advancement.

(3) At the end of each calendar year, the department of finance shall bill the fiscal courts that have received advancements for the amount received during the calendar year. If the fiscal court has not remitted the amount due the department by the first Monday in February, then the commissioner of finance shall review the county officials' budgets as approved by the fiscal court and the accounts of the county officials' operating fund to determine whether the fiscal court has sufficient funds to repay the advancement. If it is the

determination of the commissioner of finance that the fiscal court has sufficient funds to repay the advancement, then he shall direct the Attorney General to institute legal proceedings to recover the amount advanced. If it is the determination of the commissioner of finance that the fiscal court does not have sufficient funds to repay the advancement, then the commissioner shall enter into an agreement with the fiscal court for a schedule of repayment and may limit or prohibit future advancements to the fiscal court.

Section 11. KRS 64.350 is amended to read as follows:

(1) In counties having a population of seventy-five thousand (75,000) or more, the salaries of the clerks of the respective courts thereof, of sheriffs and of jailers and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the state treasury in amounts not to exceed seventy five per cent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five per cent (25%) of the fees collected by the officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts of the respective counties. The amount of twenty-five per cent (25%) of the fees collected by the officers respectively during each calendar year shall be paid to the fiscal courts of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department of finance. *After payment of the salaries and expenses specified in this subsection, any remaining balance of seventy-five per cent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasury to the fiscal courts of the respective counties.*

(2) Notwithstanding the provisions of subsection (1), all sums received into the state treasury and representing seventy-five per cent (75%) of the fees collected by the sheriffs and jailers specified in subsection (1) from any county in which a metropolitan correctional services department has been established shall be expended from the state treasury for the payment of the salaries and costs specified in subsection (1), and in section 106 of the constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs and jailers shall be paid by the state treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the department of finance.

Section 12. A new section of KRS Chapter 64 is created to read as follows:

In counties having a population of 75,000 or more:

(1) The budgets of the county clerk, sheriff, and jailer shall be forwarded to the department of finance upon approval of the fiscal court in accordance with Section 5 of this Act.

(2) The county clerk, sheriff, and jailer shall, on the first day of each month, send to the department a statement, including receipts of any fee collected pursuant to Section 13 of this Act, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department the amount so collected or received. The department may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(3) The salary of the county clerk, sheriff, and jailer and their deputies and assistants and their office expenses shall be paid monthly by the state treasurer upon the warrant of the department made payable to the official consistent with the official's budget as approved by the fiscal court. The department shall send the fiscal court a monthly statement of the amount sent to each official. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any such official is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department to any official for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the department by the official during his term of office.

Section 13. A new section of KRS Chapter 64 is created to read as follows:

(1) Except for taxes collected on behalf of the state for which standard receipt forms had been supplied by the state prior to 1974, all county officials shall, upon the receipt of any fine, forfeiture, or fee, prepare a receipt in triplicate for the full amount paid to him in each case, giving the full name and address of the person paying the fine, forfeiture or fee. One (1) copy of the receipt shall be given to the person paying the fine, forfeiture, or fee, one (1) copy shall be retained by the official for his own records, and the other copy shall be retained by the official to be filed either with the county treasurer in accordance with subsection (2) of this section, or in the case of the county clerk, sheriff, and jailer in counties having a population of 75,000 or more, with the department of finance in accordance with Section 10 of this Act.

(2) On or before the tenth of each month, county officials, except the county clerk, sheriff and jailer in counties having a population of 75,000 or more, shall remit the total amounts of fines, forfeitures, and fees collected by him during the preceding month to the county treasurer, except monies collected that are due and payable to the state as provided by law.

(3) County officials, except the county clerk, sheriff, and jailer in counties having a population of 75,000 or more shall, on or before the tenth of each month, submit a daily record sheet of those taxes collected during the preceding month on behalf of the state.

Section 14. KRS 68.010 is amended to read as follows:

(1) The fiscal court of each county, at its regular April term every four (4) years [beginning with 1913,] shall appoint a county treasurer for a term of four (4) years. If for any reason the county treasurer is not appointed at the April term, the county judge shall call the fiscal court to meet immediately after the adjournment of the term on a day fixed by order entered on the order book of the court, and the meeting shall be held within two (2) weeks after the adjournment of the April term.

(2) No person *shall be* [is] eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, at least twenty-five (25) years old, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. *Any person who is employed by a banking institution or who is an officer of a banking institution shall not be eligible for appointment by the fiscal court as county treasurer.* The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) good sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(3) The fiscal court may remove the county treasurer at any time for neglect of duty, incompetency or dishonesty.

(4) In the case of a vacancy from any cause in the office of county treasurer, the county judge shall call a special term of the fiscal court to fill the vacancy.

(5) *The county treasurer shall be a full-time employe of the fiscal court and the fiscal court shall fix his salary at a rate not less than \$4,200 per annum. The salary of the county treasurer may be paid out of the county officials' operating fund.*

Section 15. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and *issue* receipts for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall hold such money subject to the order of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor.

(2) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against any one (1) having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(3) He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department of finance.

(4) He shall keep his office at the county seat, in a room or rooms provided by the fiscal court. He shall keep his office open for the collection of money at all reasonable times, except on Sundays and legal holidays.

(5) The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge shall call a special term which shall proceed in the manner of the county treasurer.

(6) *The county treasurer shall keep an accurate detailed account of all money received and disbursed by him in accordance with the approved budget as provided for by Section 5 of this Act for the county officials' operating fund, and shall make reports of the county officials' operating fund when directed by the fiscal court or the department of finance.*

(7) *Except those fines provided for by KRS Chapter 150 and any other fine due the state which is specifically provided for by law, the county treasurer in counties having a population less than 75,000 shall attend to the collection of all fines and forfeitures rendered in county, quarterly, and magistrate courts.*

(8) *In counties having a population less than 75,000, the clerks of the county, quarterly, and magistrate courts shall submit a report to the county treasurer listing all fines and forfeitures imposed in his court, except those fines provided for by KRS Chapter 150 and any other fine due the state which is specifically set out by law, on or before the tenth of each month and at the same time shall pay over all such fines and forfeitures collected to the county treasurer.*

Section 16. KRS 43.050 is amended to read as follows:

(1) The auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the general assembly to provide for the independent auditing of the accounts and financial transactions of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records and transactions of the budget units, and the general accounts of the state.

(b) Make a complete *annual* audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state [, when such an audit is demanded in writing by the legislative research commission, the commissioner of finance or the governor, and may make such an audit when it is not so demanded].

(c) Examine annually the management, conduct and condition of all asylums, prisons, feeble-minded and eleemosynary institutions and public works owned, operated or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power, giving special attention to the faithful and economical application of any money appropriated by the state to the institution or public works examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the department of finance, the state treasurer and the superintendent of public instruction, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make such collections.

(f) Make special audits and investigations when required by the governor.

(g) Investigate the means of accounting for, controlling and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(h) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each biennial budget report, and certify in writing the results of such audit and examination with such comments as he deems necessary for the information of the general assembly, his certificate and comments to be included with the statements and estimates as presented in the budget reports.

(i) Report immediately in writing to the governor, each member of the legislative research commission, and the commissioner of finance, any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure or practice is contemplated and any obstruction of the auditor or his agents during the conduct of any audit or investigation of a state agency.

(j) Assist the legislative research commission at hearings and investigations conducted by it and cooperate with the legislative research commission in the preparation of its reports to the general assembly.

(k) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and such accounts as he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of such funds or property in the course of audits provided for in this section.

Section 17. KRS 43.070 is amended to read as follows:

(1) *To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:*

(a) *The funds contained in each county's budget; and*

(b) *The books, accounts, and papers of all county officials and circuit court clerks.* [The auditor shall, once in each year, examine the books, accounts and papers of all county officers receiving or disbursing county funds. The examination shall be made at the same time the auditor makes the examination for the benefit of the state, and the county shall bear one-half (1/2) of the actual expense of the examination.]

(2) *The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph (b) of subsection (1) of this section.* [The county shall bear the actual expenses incurred by the auditor in examining the accounts of county officials to determine if the moneys received by said officials exceed their constitutional or statutory salary limitation.]

(3) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection[s] (1) [and (2)] of this section, the auditor of public accounts shall bill the county for the [actual] expenses incurred pursuant to subsection [(1) and] (2) of this section. A copy of this bill shall be forwarded to the commissioner of finance. If the amount billed has not been paid within ninety (90) days from date of billing, the auditor shall notify the commissioner of finance and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 and 431.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to [subsections (1), (2) and (3) of] this section shall be credited to the trust and agency account of the auditor of public accounts.

(4) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted to the commissioner of finance and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 18. KRS 43.080 is amended to read as follows:

(1) The auditor and his authorized agents shall have access to and may examine all books, accounts, reports, vouchers, correspondence, files, records, money and property of any state agency. Every officer or employe of any such agency having such records or property in his possession or under his control shall permit access to and examination of them upon the request of the auditor or any agency authorized by him to make such request.

(2) The auditor and his assistants shall have access at all times to the papers, books and records of the asylums, prisons, feeble-minded and eleemosynary institutions, and public works that he is authorized to examine, and of any county *official and circuit court clerk* [officer who receives or disburses county funds].

(3) The auditor may require information on oath from any person touching any matters relative to any account that the auditor is required to state, audit or settle. The auditor may administer the oath himself, or have it done by any officer authorized to administer an oath.

(4) The auditor and his assistants may issue process and compel the attendance of witnesses before them, and administer oaths and compel witnesses to testify in any of the investigations the auditor is authorized to make.

Section 19. KRS 43.090 is amended to read as follows:

(1) Immediately upon completion of each audit and investigation, except those provided for in KRS 43.070, the auditor shall prepare a report of his findings and recommendations. He shall furnish one (1) copy of the report to the head of the agency to which the report pertains, one (1) copy to the governor, one (1) copy to the commissioner of finance, and one (1) copy to the state librarian. He shall prepare and transmit to each member of the general assembly, by December 15 immediately preceding the convening of each regular session of the general assembly, a printed report of his activities, summarizing the findings and recommendations in his report on each audit or investigation made since the last preceding biennial report to the general assembly, and presenting such other findings and recommendations as he sees fit to make. He shall file a copy of this report with the governor and five (5) copies with the state librarian. All audit reports shall be public documents to which taxpayers shall have access.

(2) The auditor shall, within a reasonable time after the examination of each county as provided in KRS 43.070, make a written report to the governor, *the general assembly, the attorney general, the County Officials' Compensation Board*, the state librarian and to the *fiscal court and county attorney* [county judge] of the county examined, calling attention in specific terms to any mismanagement, misconduct, misapplication or illegal appropriation or extravagant use of money received or disbursed by any officer of the county examined. *In addition, said report shall be sent to a newspaper having general circulation in the county examined and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.*

Section 20. A new section of KRS Chapter 43 is created to read as follows:

(1) The auditor shall collect any amount due the county from county officials and circuit court clerks following an audit of the official as prescribed by paragraph (b) of subsection (1) of Section 17 of this Act if the amount can be collected without suit. Upon collection the auditor shall transmit the amount to the county treasurer of the county.

(2) In the event the auditor cannot collect the amount due the county from the county official or circuit court clerk without suit, the auditor shall report the facts and amount involved to the fiscal court of the county. The fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the auditor to be due the county within ninety (90) days from the date of receiving the auditor's report.

(3) In the event the fiscal court fails or refuses to have suit instituted by the county attorney as prescribed by subsection (2) of this section, the auditor shall appoint an attorney to institute suit for the recovery of money due the county. The county shall bear the actual expenses incurred in the suit instituted by the auditor on behalf of the county and the auditor shall bill the county in the manner prescribed by

subsections (3) and (4) of Section 17 of this Act.

Section 21. KRS 64.540 is amended to read as follows:

The fiscal court of any county is authorized to have an annual audit made of the accounts of any county official [officer] or county employe [, within the meaning of KRS 64.530, who is compensated in whole or in part by fees, except those officers enumerated in subsection (2) of KRS 64.530].

Section 22. KRS 64.345 is amended to read as follows:

(1) The circuit clerk, county clerk, sheriff and jailer of each county having a population of 75,000 or over shall be entitled to a maximum [receive an] annual compensation [salary] of \$17,500 [\$12,600].

(2) The amount, if any, allowed for the necessary office expenses of circuit clerks in counties having a population of 75,000 or more [each officer] shall be fixed by an order entered upon the order book of the circuit court and county court, and signed by the judges or a majority thereof of the courts. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

(3) Each circuit clerk in counties having a population of 75,000 or more [officer] shall, on the first day of each month, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the department of finance the amount so collected or received. The department of finance may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each circuit clerk in counties having a population of 75,000 or more [officer] and his deputies and assistants and his office expenses, shall be paid monthly by the state treasurer upon the warrant of the department of finance made payable to the officer. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the department of finance to any officer for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the department of finance by the officer during his official term.

(5) The number of deputies and assistants allowed [to] each circuit clerk in counties having a population of 75,000 or more [officer] and the compensation allowed [to] each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the circuit court and county court and signed by the judges or a majority thereof of those courts. A certified copy of the order, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the department of finance.

Section 23. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population less than 75,000, each circuit court clerk shall, on the first Monday of each month, beginning January 1974, send to the department of finance a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and the expenditures of his office the preceding month. The department of finance may extend the time for filing the statement for a period not exceeding ten (10) days in any month.

(2) Each circuit clerk in counties containing a population of less than 75,000 shall be paid each month, beginning July 1974, one-twelfth (1/12) of five per cent (5%) of the total fines and forfeitures recovered in the county, quarterly, and magistrate courts of his county during the fiscal year 1973-1974, by the state treasurer upon the warrant of the department made payable to the circuit clerk.

(3) The department shall compile a uniform statement to be used by each circuit clerk in counties having a population less than 75,000 when filing a statement with the department in accordance with subsection (1) of this section.

Section 24. A new section of KRS Chapter 64 is created to read as follows:

(1) In counties having a population of 75,000 or more, the circuit court clerk shall be entitled to five per cent (5%) of all funds forwarded to the department of finance pursuant to subsection (1) of Section 25 of this Act and five per cent (5%) of the funds disbursed by him to jurors pursuant to Section 26 of this Act.

(2) In counties having a population less than 75,000, the circuit court clerk shall be entitled to five per cent (5%) of all funds forwarded to the department of finance pursuant to subsection (2) of Section 25 of this Act and five per cent (5%) of the funds disbursed by him to jurors pursuant to Section 26 of this Act.

Section 25. KRS 28.170 is amended to read as follows:

(1) The circuit clerk in counties having a population of 75,000 or more [each county] shall attend to the collection of all fines and forfeitures. In counties having a population of 75,000 or more, the clerk of each court having jurisdiction to impose fines in favor of the state shall, not later than the close of the last day of each regular term of circuit court, submit a report to the circuit clerk listing all fines and forfeitures imposed in his court subsequent to the last preceding term of circuit court, and at the same time shall pay over all fines and forfeitures collected to the circuit clerk. The circuit clerk shall, within thirty (30) days after the last day of each regular term of circuit court, submit to the department of finance a report listing all such fines and

forfeitures, in addition to any fines and forfeitures collected in the circuit court, and shall pay over to the department of finance, at the same time, all fines and forfeitures so reported.

(2) *The circuit clerk in counties having a population less than 75,000 shall attend to the collection of all fines and forfeitures rendered in the circuit court, all fines due to fish and wildlife violations in accordance with KRS 150.160, and any other fine due the state which is specifically set out by law. In counties having a population less than 75,000, the clerk of each court having the jurisdiction to impose fines due to fish and wildlife violations in accordance with KRS Chapter 150 and any other fine due the state which is specifically provided for by law, shall not later than the close of the last day of each regular term of circuit court, submit a report to the circuit clerk listing all such fines and forfeitures subsequent to the last preceding term of circuit court, and at the same time shall pay over all such fines and forfeitures to the circuit clerk. The circuit clerk shall, within thirty (30) days after the last day of each regular term of circuit court, submit to the department of finance a report listing all such fines and forfeitures, in addition to any fines and forfeitures collected in the circuit court, and shall pay over to the department of finance, at the same time, all fines and forfeitures so reported.*

(3)[(2)] Upon the failure of any of the courts within a county to submit to the circuit clerk, by the close of the last day of the related term of circuit court, the required report and to pay over, at the same time, the fines and forfeitures collected, the circuit clerk shall immediately notify the department of finance, and the department of finance shall then notify the auditor of public accounts that the court concerned is delinquent in the matter.

(4)[(3)] Upon the failure of the circuit court to submit to the department of finance, within the prescribed thirty (30) days, the required report and to pay over, at the same time, the fines and forfeitures collected, the department of finance shall immediately notify the auditor of public accounts that the clerk concerned is delinquent in the matter.

(5)[(4)] The department of finance may, upon written request postmarked or delivered within the said prescribed thirty (30) day period, for good cause satisfactory to the department, grant a reasonable extension of the time within which the report is to be made or the fines and forfeitures are to be paid over.

Section 26. KRS 28.180 is amended to read as follows:

[(1)] Each circuit clerk shall pay to each juror and each jury commissioner the compensation allowed to him by law, under appropriations provided by the general assembly and in accordance with procedures governing expenditures from appropriations. He shall take a receipt for each payment made by him showing the date on which payment is made. For the purpose of providing for such payments, the state treasurer, on direction of the department of finance, shall advance to each circuit clerk an imprest fund sufficient for the payments for a term of court or, if the court is one of continuous session, sufficient for the period of services of each grant or petit jury panel, or both, but not to exceed a period of sixty (60) days.

[(2)] The circuit court clerk shall be allowed five per cent (5%) of all funds forwarded to the state treasury under KRS 28.170, and an amount equal to five per cent (5%) of the funds disbursed by him under this section.]

Section 27. KRS 64.510 is amended to read as follows:

Each commonwealth's attorney shall receive an annual compensation of \$15,600 to be paid monthly out of the state treasury [(1)] The maximum compensation that may be received by a commonwealth's attorney out of the state treasury, including the annual salary and the percentage of fines and forfeitures provided for in subsection (2) of this section, shall not exceed \$9,600 and the amount provided by KRS 64.515].

[(2)] Each commonwealth's attorney shall receive an annual salary of \$1,200 to be paid out of the state treasury. In addition thereto and in lieu of all taxed fees and perquisites, he shall be allowed the sum of \$8,400 a year out of the fines and forfeitures rendered in his district, to be paid monthly out of the fines and forfeitures collected and paid into the state treasury each month. Except as provided in KRS 150.160, he shall receive forty per cent (40%) of all fines and forfeitures recovered in prosecutions before any county judge or magistrate and all of the fines and forfeitures rendered in circuit court except that part now allowed the circuit clerk and the county attorney. When the fines and forfeitures rendered in favor of the commonwealth in the several courts in his district in any year are not sufficient to allow him \$8,400 and in the succeeding year they are sufficient to exceed that amount, he shall be paid out of the excess, if sufficient, the sum necessary to bring his compensation from fines and forfeitures for the preceding year to \$8,400. In no case shall he receive more than the maximum allowed under subsection (1) of this section.]

[(3)] Counties shall have the same authority to allow and pay additional compensation to the commonwealth's attorney as is conferred by KRS 64.500 with respect to circuit judges, within the constitutional limit on the compensation of officers whose jurisdiction or duties are co-extensive with the commonwealth.]

Section 28. KRS 142.030 is amended to read as follows:

(1) To provide [the] revenue [necessary] to assist in the financing [carry out the provisions] of KRS 64.510 [and 64.515], a tax of three dollars and fifty cents (\$3.50) is hereby levied upon conviction in each criminal case carrying a fine where the fine is paid into the state treasury. The funds raised by the aforesaid

tax shall be paid into the state treasury, and shall be deposited into a revolving fund which hereby is created and designated the commonwealth's attorneys' *compensation fund* [expense account], and from which fund the appropriations hereunder shall be disbursed.

(2) Any surplus in excess of forty thousand dollars (\$40,000) which shall have accumulated to the commonwealth's attorneys' *compensation fund* [expense account] at the close of any fiscal year shall be transferred to and become a part of the general fund of the commonwealth.

Section 29. A new section of KRS Chapter 64 is created to read as follows:

The pro tem commonwealth's attorney appointed under KRS 69.060 shall be paid out of the state treasury on certificate of the circuit court clerk upon the order of the circuit judge allowing the person appointed \$50.00 per day.

Section 30. KRS 64.518 is amended to read as follows:

(1) In counties having a population of 200,000 or more:

(a) The first and second assistant commonwealth's attorneys appointed under KRS 69.070(1) shall each receive an annual salary of not less than \$5,000. *The third assistant commonwealth's attorney appointed under KRS 69.070(1) shall receive an annual salary of not less than \$4,000. The assistant commonwealth's attorneys appointed under KRS 69.070(2) shall each receive an annual salary of not less than \$4,800.* [One (1) assistant commonwealth's attorney shall receive an annual salary of not less than \$4,000 and other assistant commonwealth's attorneys appointed under KRS 69.070 shall each receive an annual salary of not less than \$4,800.] The salaries in this subsection shall be fixed by the fiscal court in the county and none shall exceed the total compensation of the commonwealth's attorney.

(b) The stenographers appointed under KRS 69.100 shall each receive an annual salary of not less than \$2,700. The stenographer appointed to perform the duties of record clerk shall receive an annual salary of not less than \$3,600.

(2) The salaries described in subsection (1) of this section shall be paid in equal monthly instalments out of the county levy. Such salaries may be increased by the fiscal court in accordance with KRS 64.520.

[(3) In judicial districts composed of one (1) county containing a city of the second class and having a population of less than 200,000, the assistant commonwealth's attorney shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.]

Section 31. A new section of KRS Chapter 64 is created to read as follows:

(1) In any judicial district composed of only one (1) county containing a city of the second class and having a population of less than 200,000, the assistant commonwealth's attorney appointed under KRS 69.095 shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.

(2) In counties containing a population of 40,000 or more but not containing a city of the second class, the assistant commonwealth's attorney appointed under KRS 69.055 shall receive an annual salary of not less than \$4,000 nor more than \$6,000 to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.

Section 32. KRS 64.520 is amended to read as follows:

(1) In any judicial district composed of only one (1) county, the assistant commonwealth's attorney and the stenographers and district detectives for the commonwealth's attorney, provided for by law, shall receive such compensation, payable out of the county treasury, as is fixed by the fiscal court, subject to KRS 64.518, [and] 64.525, *and Sections 31 and 34 of this Act.*

(2) In any judicial district composed of more than one (1) county, for which an assistant commonwealth's attorney, stenographer or district detective for the commonwealth's attorney is provided for by law, the fiscal courts of the several counties shall, by joint action, exercise the powers conferred by this section upon the fiscal courts of single county districts with respect to fixing compensation, and such compensation shall be paid out of the county treasuries of the respective counties in proportion to the amount of work attributable to each county, the proportion being certified by the commonwealth's attorney.

Section 33. KRS 64.525 is amended to read as follows:

(1) In counties having a population of 125,000 or more, the district detectives appointed under KRS 69.110 shall each receive an annual salary of not less than \$6,000.

(2) In counties containing a city of the second class, the district detective appointed under KRS 69.110 shall receive an annual salary of not less than \$7,200 nor more than \$9,600.

(3) In counties containing a population of 40,000 or more but not containing a city of the second class, the district detective appointed under KRS 69.110 shall receive an annual salary of not less than \$5,000.

(4) *In judicial districts composed of three (3) or more counties and containing a city of the third class, the district detective appointed under KRS 69.110 shall receive an annual salary not to exceed \$7,500.*

(5) *In all judicial districts not covered by subsections (1) to (4) above, the salary of a district detective appointed under KRS 69.110(7) shall be the same as provided in subsection (4) of this section.*

(6) [(4)] The salaries described in subsections (1) to (5) [(3)] of this section shall be paid in equal monthly instalments out of the county levy *in accordance with KRS 64.520*. Such salaries may be increased by the fiscal court in accordance with KRS 64.520.

(7) [(5)] In counties containing a city of the first class the fiscal court may authorize the payment out of the county treasury of sums sufficient to reimburse the district detectives for expenses incurred for gasoline and motor oil used in the performance of their official duties, and may prescribe the amount, manner and conditions of payment.

Section 34. A new section of KRS Chapter 64 is created to read as follows:

In counties containing a city of the second class, the stenographer appointed by the commonwealth's attorney under KRS 69.105 may receive an annual salary to be fixed and paid by the fiscal court out of the county levy in equal monthly instalments.

Section 35. KRS 69.055 is amended to read as follows:

In counties containing a population of 40,000 or more persons but not containing a city of the second class, the commonwealth's attorney may, if the fiscal court concurs therein, appoint an assistant commonwealth's attorney having a term of four (4) years subject to removal at any time by the commonwealth's attorney. [Such assistant commonwealth's attorney may receive an annual salary, payable in equal monthly instalments out of the county levy, the annual salary to be set by the fiscal court, within the limits and in accordance with KRS 64.530, at not less than \$4,000 per year not more than \$6,000 per year.]

Section 36. KRS 69.060 is amended to read as follows:

If the commonwealth's attorney is absent at any term or part of a term of a circuit court, the circuit judge may appoint a suitable attorney to act as commonwealth's attorney during his absence. [The judge shall enter an order allowing the person appointed seven dollars (\$7.00) per day, to be paid out of the state treasury on certificate of the circuit court clerk. In addition the pro tem attorney, shall have one-half (1/2) the per centum allowed the commonwealth's attorney.] The judge shall not appoint an attorney to act in the place of the commonwealth's attorney unless he and the county attorney are both absent, or are related to or counsel for the accused, except that in cases of felony the judge may appoint a pro tem commonwealth's attorney even though the county attorney is present and not disqualified.

Section 37. KRS 69.070 is amended to read as follows:

(1) In counties having a population of 200,000 or more the commonwealth's attorney shall appoint a first, second and third assistant commonwealth's attorney for terms of four (4) years each, but they may be removed at any time by the commonwealth's attorney. *The salaries of the first, second, and third assistants shall be set by the fiscal court in accordance with KRS 64.518.*

(2) In such counties where there are two (2) or more criminal divisions of the circuit court, the commonwealth's attorney may appoint, in addition to a first, second and third assistant commonwealth's attorney, such other assistant commonwealth's attorneys, not to exceed ten (10) or a total of thirteen (13) assistant commonwealth's attorneys as the commonwealth's attorney may deem necessary, one (1) of whom shall act as secretary to the grand jury. *The salaries of the assistant commonwealth's attorneys appointed under the provisions of this subsection shall be set by the fiscal court in accordance with subsection (1) of Section 30 of this Act.*

Section 38. KRS 69.095 is amended to read as follows:

[(1)] In any judicial district composed of only one (1) county containing a city of the second class, and having a population of less than 200,000, the commonwealth's attorney may appoint an assistant commonwealth's attorney for a term of four (4) years subject to removal at any time by the commonwealth's attorney. [He shall receive an annual salary of not less than \$4,000, nor more than \$6,000, to be fixed by the fiscal court and paid out of the county levy in equal monthly instalments.] [(2)] The qualifications and duties of such assistant commonwealth's attorney shall be the same as those set forth in KRS 69.080.

Section 39. KRS 69.105 is amended to read as follows:

In counties containing a city of the second class, the commonwealth's attorney may appoint a stenographer for a term of four (4) years, subject to removal at any time by the commonwealth's attorney. The stenographer shall do stenographic work for the commonwealth's attorney, and shall have the same power of administering an oath as a notary public. [The stenographer may receive an annual salary to be fixed and paid by the fiscal court out of the county levy in equal monthly instalments. In judicial districts which contain one or more other counties in addition to the county containing a city of the second class, each county shall pay a proportionate part of the salary of the stenographer, in proportion to the amount of work attributable to each county, the proportion being certified by the commonwealth's attorney; and provided same is approved by the fiscal courts of such counties.]

Section 40. KRS 69.110 is amended to read as follows:

(1) In counties having a population of 150,000 or more the commonwealth's attorney shall appoint seven (7) district detectives for a term of four (4) years subject to removal at any time by the commonwealth's attorney.

(2) In counties having a population of 125,000 or more the commonwealth's attorney may appoint four (4) district detectives for a term of four (4) years subject to removal at any time by the commonwealth's attorney, subject to the approval of the fiscal court.

(3) In counties containing a city of the second class the commonwealth's attorney shall appoint a district detective for a term of four (4) years subject to removal at any time by the commonwealth's attorney.

(4)[(5)] In counties containing a population of 40,000 or more persons but not containing a city of the second class, the commonwealth's attorney may, if the fiscal court concurs therein, appoint a district detective having a term of four (4) years subject to removal at any time by the commonwealth's attorney.

(5)[(6)] In districts composed of three (3) or more counties and containing a city of the third class, the commonwealth's attorney may appoint a district detective having a term of four (4) years subject to removal at any time by the commonwealth's attorney. [Such district detective may receive an annual salary not to exceed \$7,500, to be paid by the fiscal courts of the district in such manner as they may agree.]

(6)[(7)] In all districts not covered by subsections (1) to (5) [(6)] above, the commonwealth's attorney may appoint one (1) district detective subject to the same [salary and] tenure provisions as subsection (5) [(6)] above.

(7)[(4)] The detectives appointed pursuant to this section shall have the same power of arrest and right to execute process as sheriffs have. They shall assist the commonwealth's attorney in all matters pertaining to his office in the manner he designates and shall assist him in the preparation of all criminal cases in circuit court by investigating the evidence and facts connected with such cases.

Section 41. A new section of KRS Chapter 64 is created to read as follows:

Each county judge of the state shall be entitled to a monthly maximum sum of \$200 to be paid out of the revolving fund created by KRS 25.320, as partial compensation for the discharge of his official duties.

Section 42. KRS 25.320 is amended to read as follows:

(1) A revolving fund is established and designated as the county judge *compensation* [expense allowance] fund. The money paid into the state treasury under KRS 453.030 shall be credited to this fund. For the purposes of KRS 45.140 the commissioner of finance is head of the budget unit in relation to this fund.

(2) The purpose of the fund is to provide a source from which payments may be made to county judges to *assure that their compensation is adequate* [defray or partly defray the expenses of maintaining their offices].

(3) Any surplus *in excess of \$45,000 accumulated to the county judges' expense allowance fund at the close of any fiscal year, beginning with the close of the fiscal year 1973-1974*, [in the fund at the end of a fiscal year] shall be transferred to the general fund.

Section 43. A new section of KRS Chapter 64 is created to read as follows:

(1) Except as provided in KRS 150.160, in counties having a population of 75,000 or more, county attorneys shall receive:

(a) Forty per cent (40%) of all fines and forfeitures recovered in prosecutions before a county judge or magistrate;

(b) Twenty-five per cent (25%) of the fines and forfeitures recovered in favor of the commonwealth in circuit court in those cases in which he is present and assists in prosecuting; and

(c) Thirty per cent (30%) of the fines and forfeitures recovered in favor of the commonwealth before a police judge in those cases in which he is present and prosecutes.

(2) Except as provided in KRS 150.160, in counties having a population of less than 75,000, county attorneys shall receive:

(a) Fifty per cent (50%) of all fines and forfeitures recovered in favor of the commonwealth before a county judge or magistrate; and

(b) Thirty per cent (30%) of the fines and forfeitures recovered in favor of the commonwealth before a police judge in those cases in which he is present and prosecutes.

(3) The percentage allowed the county attorney is in lieu of all taxed fees and prerequisites except that when a fine or forfeiture recovered in a police court is less than ten dollars (\$10.00) he shall be allowed a fee of five dollars (\$5.00) to be taxed as costs, and when a fine or forfeiture recovered before a county judge or magistrate or in a circuit court is less than twenty-five dollars (\$25.00) he shall be allowed a fee of five dollars (\$5.00) to be taxed as costs.

(4) County attorneys shall not receive any percentage except upon fines and forfeitures that have been collected and paid into the state or county treasury unless the commonwealth's portion thereof is remitted by the governor.

Section 44. A new section of KRS Chapter 64 is created to read as follows:

Each county attorney of the state shall be entitled to a monthly maximum sum of \$250 to be paid out of the revolving fund created by KRS 142.040, as partial compensation for the discharge of his official duties.

Section 45. KRS 142.040 is amended to read as follows:

(1) To provide the revenue necessary to carry out the provisions of *section 44 of this Act* [KRS 29.265], a state docket fee of three dollars and fifty cents (\$3.50), in addition to fees now provided by law is hereby levied upon each conviction in each criminal case carrying a fine when the fine is paid into the state treasury. The funds raised by such tax shall be paid in the state treasury, and shall be deposited into a revolving fund which hereby is created and designated the county attorneys' state *compensation fund* [expense account], and from which fund the appropriations under *section 44 of this Act* [KRS 69.265] shall be disbursed.

(2) Any surplus in excess of ninety thousand dollars (\$90,000) which shall have accumulated to the county attorneys' state *compensation fund* [expense account] at the close of any fiscal year, subsequent to the close of the fiscal year 1961-1962, shall be transferred to and become a part of the general fund of the commonwealth.

Section 46. KRS 64.150 is amended to read as follows:

(1) Jailers shall be paid out of the county treasury, except as provided in subsection (2) of this section, the following fees for the following services:

Attending county and quarterly court per day
(jailer shall be paid the fee
for each day the court is in
session)-----\$6.00

Furnishing fuel and lights to county
and quarterly court, except as
provided in KRS 67.150, a
reasonable compensation, not
exceeding, per day-----\$2.00

Putting a prisoner in irons, for
an offense other than a
felony or contempt besides
the cost of irons-----\$.50

Keeping and dieting prisoners in
jail when confined for an
offense other than a felony
or contempt of court,
per day-----2.00[\$3.50]

Imprisoning and releasing a
prisoner charged with a
misdemeanor-----\$.75

(2) Where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine, the fees for keeping and dieting the prisoner and for imprisoning and releasing shall be paid by such city.

(3) Jailers shall be paid out of the state treasury the following fees for the following services:

Imprisoning and releasing a prisoner
charged with a felony or
contempt-----\$.75

Keeping and dieting a prisoner
charged with a felony or
contempt, per day-----2.00[\$3.50]

Putting a prisoner charged with a
felony or contempt in irons,
to secure his safekeeping in
the jail, besides the cost of
the irons-----\$.50

Each day's attendance upon the
circuit court-----\$6.00

Furnishing fuel, light, and water
to the circuit court, not
exceeding, per day-----\$2.00

Imprisoning and releasing a prisoner for violation of his probation
or parole; Provided, however, the state granting probation or
parole has executed a compact with the commonwealth in accordance
with KRS 439.560. The fees shall be the same as those charged
for felony and contempt.

(4) For all other services performed by the jailer, he shall receive the same fees paid to sheriffs for like services.

(5) *In the event a court of a county sends a prisoner to a jail of another county, then the county treasurer of the county from which the prisoner was sent shall pay the treasurer of the holding county any fees to which the jailer of the holding county is entitled to by law.* [The county treasurer of any county from which a prisoner is sent to another county to be held for a court of the former county shall pay to the treasurer of the holding county the sum of four dollars (\$4.00) per day for each day such prisoner is held, which payment shall be in addition to any fees to which the jailer of the holding county is entitled by law.]

Section 47. A new section of KRS Chapter 68 is created to read as follows:

The fiscal court of every county shall establish a fund to be designated and known as the prisoners' dieting account for the purpose of guaranteeing each prisoner confined in the county jail an adequate diet and shall authorize the direct payment of \$2.00 per day for each prisoner confined in the county jail to the prisoners' dieting account.

Section 48. A new section of KRS Chapter 64 is created to read as follows:

(1) The county treasurer shall be paid \$2.00 per day out of the state treasury for each prisoner charged with a felony or contempt of court who is confined in the county jail.

(2) The county treasurer shall be paid \$2.00 per day out of the city treasury for each prisoner confined in the county jail for a breach of the bylaws or ordinances of a city, or for a violation of a statute where the city gets the benefit of the fine.

(3) In the event a court of a county sends a prisoner to a jail of another county, then the county treasurer of the county from which the prisoner was sent shall pay the treasurer of the holding county \$2.00 per day for each prisoner sent.

(4) The county treasurer shall credit \$2.00 per day to the prisoners' dieting account out of the general fund of the county for each prisoner confined in the county jail for the purpose of furnishing each prisoner an adequate diet.

(5) The jailer shall send a weekly itemized bill of the food purchased for prisoners confined in the county jail to the county treasurer who shall then debit the prisoners' dieting account to the extent of the bill submitted by the jailer and shall reimburse the jailer for that amount.

(6) If the prisoners' dieting account is not adequate to pay the food bills submitted by the jailer, then the fiscal court shall investigate the food bills submitted. If the fiscal court determines that the charges are reasonable, then the fiscal court shall make additional credits to the account to cover the bills or a portion thereof submitted by the jailer. If the fiscal court determines that the jailer made an unreasonable charge, an illegal charge, or an overcharge, then the fiscal court shall not make additional credits to the account and the jailer shall be liable for the charge.

(7) At the end of each fiscal year, funds remaining in the prisoners' dieting account shall lapse and shall revert to the county's general fund.

Section 49. KRS 64.530 is amended to read as follows:

[(1) Except as provided in subsections (6) and (7) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535.]

[(1)][(2)] The county attorney of each county shall receive a reasonable annual salary to be fixed by the fiscal court. In addition to such salary, the county attorney shall also be entitled to the statutory fees of his office, but his annual salary as fixed by the fiscal court, *including compensation from the state pursuant to section 44 of this Act*, plus the fees of his office shall not exceed \$15,600 in counties containing a population of less than 75,000 and \$17,500 in counties containing a population of 75,000 or more[\$12,600].

[(3) For the purposes of this section, master commissioners and receivers in counties other than those containing a population of 75,000 or more, and justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.]

[(4) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, except as provided in subsection (8), the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.]

[(5) In the case of county officers elected by popular vote, the annual compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent

herewith.]

[(6) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, master commissioner or receiver, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.]

(2)[(7)] Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred and fifteen dollars (\$215) per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed \$8,000 per year; in counties containing cities of the second class it shall not exceed \$7,500 per year and in counties containing cities of the third or fourth class it shall not exceed twenty per cent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding June 16, 1972, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285, shall be effective as to any member of a fiscal court during his term of office.

(3)[(8)] Circuit court clerks in counties other than those containing a population of 75,000 or more shall receive as compensation per year the maximum compensation allowed by law for circuit court clerks of this commonwealth, if fees or funds for this purpose are sufficient. The first and second deputies shall be allowed to receive a salary not to exceed \$8,400 per year; and other deputies shall be allowed to receive a salary not to exceed \$6,600 per year. Each circuit clerk shall be allowed to fix the amount of the salary of each of his deputy clerks.

(4) *The salaries of deputies and assistants of county officials shall be fixed at an amount no greater than \$9,600 per annum.*

Section 50. KRS 64.258 is amended to read as follows:

(1) *Upon the order of the fiscal court, each justice of the peace or magistrate within a county may be entitled to a sum of not more than \$100 per month, to be paid out of the county officials' operating fund, for the expenses incidental to the discharge of his official duties.* [The fiscal court of any county may pay to each justice of the peace or magistrate within the county a sum not to exceed \$100 per month in order to assist with the expenses of his office.] This sum shall not be considered as salary within the meaning of KRS 64.255.

(2) *Before the county treasurer shall reimburse a justice of the peace or magistrate for expenses, said justice of the peace or magistrate shall submit an itemized statement of expenses, accompanied by a receipt for each item of expense in excess of \$2.00 or in the case of automobile mileage expenses accompanied by a documented travel log.* [The amounts paid to each justice of the peace or magistrate within the county shall be equal. No justice or magistrate shall be compensated in a greater or lesser amount than another justice or magistrate.]

(3) Said amount may be paid by the fiscal court only when the county possesses sufficient [excess] fees in the county officials' operating fund [its treasury] to permit such payments. [Payments shall not be made where the funds are not sufficient to pay all of the justices or magistrates.]

Section 51. KRS 26.660 is amended to read as follows:

(1) Justices' courts are courts of record. Each justice shall keep an order book and an execution book, to be paid for by the county. He shall keep in it a full and fair record of his judicial proceedings, and sign it at the end of each term. The book shall be kept properly indexed. Each justice shall give to any person requesting it a certified copy of any record in his custody, and the copy shall be admissible in evidence.

(2) Each justice shall, upon the payment of fines and forfeitures into his court, prepare a receipt in triplicate [duplicate] for the full amount paid into his court in each case, giving the full name and post office address of the person paying the fine or forfeiture. One (1) copy of the receipt shall be given to the person paying the fine or forfeiture, *one copy shall be retained by the justice for his own records*, and the other copy shall be retained by the justice to be filed with the circuit court in counties having a population of 75,000 or more and with the county treasurer in counties having a population of less than 75,000, when he reports the fines and forfeitures paid into his court. Each receipt in the receipt books shall be numbered consecutively and all must be accounted for. The receipt books shall be paid for by the county.

Section 52. KRS 64.255 is amended to read as follows:

(1) In enacting legislation relating to justices of the peace, it is the intention of the general assembly to enable justices of the peace in counties having a population of less than 250,000 to exercise criminal jurisdiction as set out in KRS 25.101, and to provide [for] compensation for the[ir] performance of the duties [thereby] imposed upon them.

(2) In counties having a population of less than 250,000 each justice of the peace may be exclusively compensated for the performance of the duties of his office, insofar as they relate to the trial or decision of criminal cases, by a salary not to exceed \$1,200 per annum for counties having a population of 20,000 or less; \$2,400 per annum for counties having a population in excess of 20,000 and not exceeding 60,000; \$3,600 per annum for counties having a population in excess of 60,000 and not exceeding 250,000. In counties having a population in excess of 20,000 and not exceeding 60,000, where the justices serve districts averaging 8,000 or more persons per district, each justice of the peace may be compensated by a salary not to exceed \$3,600 per annum. The fiscal court of each county is authorized to fix salaries pursuant to the above restrictions. Salaries shall be paid in equal monthly instalments out of the county treasury.

(3) *In counties having a population of more than 75,000, all[all] moneys received or collected in criminal cases on account of or resulting from the performance of the duties or the exercise of the powers incident to the office of justice of the peace, shall be reported and paid in full to the circuit clerk of the county, on or before the tenth of each succeeding month, for proper distribution to the county and state. In counties having a population less than 75,000, all moneys received or collected in criminal cases on account of or resulting from the performance of the duties or the exercise of the powers incident to the office of justice of the peace, shall be reported and paid in full to the county treasurer, on or before the tenth of each succeeding month, for proper distribution to the county.*

Section 53. A new section of KRS Chapter 64 is created to read as follows:

(1) Each sheriff performing the duties required under the provisions of KRS 70.150 and 70.160 shall be allowed the amount of \$2,100 annually payable out of the state treasury at the rate of \$175 per month as partial compensation for such services. The check therefor shall be forwarded to the sheriff concerned on or about the last working day of each month.

(2) The amount authorized in subsection (1) of this section shall be considered as part of the sheriff's compensation.

Section 54. KRS 70.030 is amended to read as follows:

The sheriff may, with the approval of the county court, appoint his own deputies, and may revoke the appointment at his pleasure. Before any deputy executes the duties of his office he shall take the oath required to be taken by the sheriff *and his compensation shall be approved by the fiscal court.*

Section 55. KRS 70.320 is amended to read as follows:

(1) The appointment of deputy constables shall be authorized only in counties containing a first or second class city. In such counties each constable may appoint one or more deputies with the consent of the county judge. The constable and his surety are liable on his bond for all the acts and omissions of his deputies.

(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county court entered after filing or a written direction by the constable.

(3) Each deputy constable in counties containing a city of the first *or second* class shall be compensated for his services by salary fixed by the fiscal court, and paid out of the county levy.

Section 56. A new section of KRS Chapter 64 is created to read as follows:

Each county official and circuit court clerk receiving fees as provided by law shall publish and post for public inspection in some conspicuous place in his office a list of those fees charged by his office.

Section 57. A new section of KRS Chapter 64 is created to read as follows:

It shall be unlawful for any county official and circuit court clerk to deposit public funds with individual or private funds in any bank or other depository or for any such official to withdraw public funds for any purpose other than that for which they were received and deposited.

Section 58. A new section of KRS Chapter 64 is created to read as follows:

(1) In any county containing a city of the first class, the members of the fiscal court and any of its employes, the county judge and county attorney and his assistants, when duly authorized by a majority vote of the fiscal court of such county, may attend conferences, meetings, legislative or judicial hearings upon matters pertaining to county government or to the county's business, and the expenses of such attendance shall be borne and paid out of the county levy in the manner provided by such authorization.

(2) Before any such expenses are so paid by the fiscal court, the attendant at any such meeting, conference or hearing shall, within ten (10) days after his return therefrom file with the fiscal court an itemized statement of all expenses incurred by him, and such statement shall be a public record and spread at large upon the minute book of such court.

Section 59. A new section of KRS Chapter 64 is created to read as follows:

Whenever the fiscal court of any county containing a city of the first class is authorized by law to furnish a motor vehicle to any officer or employe of the county, the fiscal court may permit such officer or employe to use his own motor vehicle in the discharge of his official duties, and whenever any such officer or employe incurs any expense incident to traveling in his own motor vehicle, while on official business, the amount allowed for such expense may be fixed by the fiscal court.

Section 60. KRS 25.780 is amended to read as follows:

In each justice's district in counties containing a city of the second class and a population of less than 250,000 the justice of the peace may appoint *upon the approval of the fiscal court* a clerk for a term not to exceed the current term of office of the justice, and any necessary deputy clerks. All clerks and deputy clerks shall receive a salary as determined under *Section 5 of this Act and [KRS 64.530]* paid from the fees received by the justice's court.

Section 61. KRS 64.570 is amended to read as follows:

It is not the intention of KRS 64.480 to 64.760 to make or authorize the making of any change in the compensation of reporters for circuit courts, except that where a salary or per diem payable out of the county treasury is now fixed by law for any such reporter, the fiscal court of the county shall have the [same] power *to authorize, approve, and fix* [with respect to] such salary or per diem [as KRS 64.530 confers upon fiscal courts with respect to county officers and employees].

Section 62. KRS 69.280 is amended to read as follows:

In counties having a population of 250,000 or more the county attorney shall appoint a first and a second assistant county attorney and *any* [the] additional deputies or assistants authorized *by the fiscal court.* [under KRS 64.530.] The first and second assistant attorney shall be appointed for terms of four (4) years subject to removal at any time by the county attorney.

Section 63. KRS 70.570 is amended to read as follows:

The [said] chief, and all other appointees assigned to patrol or police duties are hereby declared to be peace officers and conservators of the public peace whose duties are to conserve the peace, enforce all laws and preserve order and shall have and are hereby given the same right and the same power to arrest, search and seize as is now given by law to sheriffs of this commonwealth, and they shall be at all times subject to the orders of the county court. Provided, however, That the members of said county police force shall not have power to serve subpoenas, summonses and notices in civil cases. The county police force shall constitute a law enforcement agency in addition to the patrol and investigation functions of the sheriff and his deputies under sections KRS 70.150 to 70.160. [70.170.]

Section 64. KRS 72.130 is amended to read as follows:

In counties having a population of 200,000 or more the coroner shall appoint a chief deputy coroner and one (1) other deputy coroner whose duties shall be to keep the books of the office, summon jurors and witnesses for the inquests, and perform any other duties assigned to him by the coroner. The deputy coroners shall have the same power of serving process for the coroner as a deputy sheriff. The deputy coroners shall be appointed for a term of four (4) years and are subject to removal by the coroner at any time. The chief deputy shall receive a salary payable out of the county treasury in equal monthly instalments. The coroner may appoint other deputies and assistants when authorized *by the fiscal court.* [pursuant to KRS 64.530.]

Section 65. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of 75,000 or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed in the county court, and recorded in the order book of the county court in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county court shall be filed with the department of revenue. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes.

(3) Each outgoing sheriff shall make a final settlement with the department of revenue and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of

this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) *The fiscal court shall allow and reimburse the outgoing sheriff* [The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530] the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 66. KRS 241.110 is amended to read as follows:

(1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge shall thereupon constitute a county alcoholic beverage control administrator for the county. However, the county judge may decline to accept said office, or after accepting same he may resign therefrom, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, he may thereupon appoint a person at least thirty (30) years of age, who at the time of his appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge as county alcoholic beverage control administrator for such county. Before entering upon his duties as such county alcoholic beverage control administrator appointed by the county judge the appointee shall take the oath prescribed by section 228 of the constitution and execute a bond with a good corporate surety in the penal sum of one thousand dollars (\$1,000). The cost of the bond shall be borne by the county. Upon the qualification of such person as county alcoholic beverage control administrator for such county, he shall immediately notify the board.

(2) The functions of such county alcoholic beverage control administrator, appointed by the county judge, shall be the same as set out in KRS 241.140.

(3) The compensation of such county alcoholic beverage control administrator, appointed by the county judge, shall be fixed by the fiscal court in accordance with *the provisions of KRS Chapters 64 and 68* [KRS 64.530]. The county judge may also appoint such investigators and clerks as are deemed necessary for the proper conduct of such county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court [pursuant to KRS 64.530], and they will serve at the pleasure of the county judge.

(4) No person shall be a county alcoholic beverage control administrator, as herein provided for, an investigator or an employe of the county under the supervision of such county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.

(5) The said county alcoholic beverage control administrator, appointed by the county judge, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of such county and within the corporate limits of any city therein not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge, shall be made pursuant to KRS 241.150.

Section 67. A new section of KRS Chapter 64 is created to read as follows:

In the event the voters of a county elect to establish an urban county form of government as prescribed by KRS Chapter 67A, then the legislative body of that government shall perform the functions and duties of the fiscal court as prescribed by this Act.

Section 68. A new section of KRS Chapter 64 is created to read as follows:

It is hereby declared to be the intent of the General Assembly that all fees of the office of circuit clerk, county clerk, sheriff and jailer in counties having a population of 75,000 or more that are paid into the state treasury pursuant to the provisions of section 106 of the Constitution of Kentucky are the property of the respective county and shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

Section 69. A new section of KRS Chapter 64 is created to read as follows:

(1) In order to equate the current rate of compensation of commonwealth's attorneys with the present value and purchasing power of the dollar, the department of finance shall begin monthly payments of \$1,300 to commonwealth's attorneys July, 1974, pursuant to the provisions of section 27 of this Act.

(2) In order to equate the current rate of compensation of circuit court clerks with the present value and purchasing power of the dollar, circuit court clerks in counties containing a population of less than 75,000 shall be legally entitled to the full amount of compensation set forth in section 6 of this Act for the calendar year 1974 and every calendar year thereafter.

(3) In order to equate the current rate of compensation of circuit court clerks in counties containing a population of 75,000 or more and of county court clerks, county judges, county attorneys, sheriffs, and jailers with the present value and purchasing power of the dollar, the court required by law to fix the compensation of the officials named in this subsection may, on or before September 1, 1974, adjust said officials' compensation within the limits set forth in section 6 of this Act and may provide that said officials be entitled to the maximum amount of compensation for the entire 1974 calendar year.

Section 70. KRS 64.990 is amended to read as follows:

(1) If any commissioner or receiver to whom KRS 64.270 applies fails to comply with KRS 64.270, he shall be fined not less than \$100 nor more than \$500, and, upon conviction, shall be removed from office.

(2) If any officer to whom the provisions of KRS 64.270 and section 7 of this Act applies knowingly omits or fails to report, as required, a correct statement of the amount required to be reported by those sections, or the amount of his office expenses, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, and the judgment of conviction shall be imprisoned in the penitentiary not less than one (1) nor more than five (5) years, and the judgment of conviction shall declare the office vacant.

(3) If any officer to whom KRS 64.050 applies, or his personal representative, trustee or committee, as the case may be, collects any fees, accounts or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims and accounts due to him in his official capacity, he, or his personal representative, committee or trustee, as the case may be, shall be fined not less than \$500 for each offense.

(4) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the department of finance, as required by subsection (1) of KRS 64.050, he shall be fined not less than \$500 for each offense. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be imprisoned in the penitentiary for not less than one (1) nor more than five (5) years.

(5) If any deputy or personal representative issuing a fee-bill pursuant to KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee-bill, he shall be subject to the same penalties as an officer issuing such a fee-bill.

(6) Every fee-bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.

(7) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee-bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a high misdemeanor and fined not less than \$50.00 nor more than \$200 and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.

(8) *Any official who fails to comply with the provisions of sections 3, 5, 13, or 56 of this Act, shall be fined not less than \$100 nor more than \$500, and upon conviction shall be removed from office.*

(9) *Any official who violates the provisions of section 57 shall be fined not less than \$100 nor more than \$500 and upon conviction shall be removed from office.*

Section 71. KRS 25.330, 47.115, 61.380, 61.385, 64.515, 64.535, 69.260, 69.265 and 70.170 are repealed.

Section 72. Sections 2, 3, 8, 9, 10, 12, 13, 14, 15, 17, 19, 20, 24, 25, 27, 28, 29, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 56, 57, 59, 60 and 67 shall become effective July 1, 1974.

Section 73. Whereas, section 69 of this Act affects the financing of county government of counties containing over one million of the Commonwealth's population, section 69 of this Act shall become effective upon its passage and approval by the Governor.

Section 74. In the event a person holding the office of county treasurer on the effective date of Section 14 of this Act does not meet the requirements of subsection (2) of Section 14, then the person shall forfeit his office and a vacancy shall exist.

The Committee Amendment No. 1 to the Committee Substitute for **HB 21** is as follows:

Amend printed copy of Committee Substitute for House Bill 21, page 1, line 13, by striking "(2)[(1)]" and inserting in lieu thereof "(2)";

and on line 17, by striking "(3)[(2)]" and inserting in lieu thereof "(3)";

and on page 2, line 4, by striking "(4)[(3)]" and inserting in lieu thereof "(4)";

and on line 6, by striking "(5) [(4)]" and inserting in lieu thereof "(5)";

and on page 8, line 22, by inserting after "request to the" the following: "County Officials' Compensation Board" and by striking "circuit court of the county in which he";

and on line 23 by striking "resides";

and on page 19, line 14, by striking "at a rate not less than \$4,200 per annum.";

and on line 15 by striking "The salary of the county treasurer" and by inserting "which" before "may";

and on page 20, line 1 by striking "447";

and on page 26, line 2, by striking the period after "clerks" and inserting in lieu thereof "; provided, however that the auditor shall not conduct such an audit if the fiscal court notifies the auditor that it has employed a certified public accountant to audit the books, accounts, and papers of all county officials and circuit court clerks.";

and on page 31, line 8, by adding ", circuit clerk" after "cial" and adding after "employee" the following: "in lieu of the audit conducted by the office of auditor of public accounts provided in paragraph (b) of subsection (1) of Section 17 of this Act"

and on line 17 by changing "\$17.500" to "\$17,500";

and on page 38, line 9, by changing "\$15,600" to "\$17,500";

and on page 62, line 8, by striking "Before the county treasurer shall reimburse a";

and on lines 9, 10, 11, 12, 13, by striking those lines in their entirety;

and on line 14 by striking "travel log. [";

and on line 17 by striking the bracket after "magistrate.";

and on line 21 by striking the bracket before "Payments";

and on line 23 by striking the bracket after "magistrates."

and on page 67, line 14, by striking "containing a city of the first";

and on line 15 by striking "class,";

and on page 80 by striking at the bottom of the page the following: "AN ACT relating to the offices of county officials, circuit court clerks, and commonwealth's attorneys."

SB 87, AN ACT relating to salaries of elected county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.535 is amended to read as follows:

The county court clerk, circuit clerk, county judge, sheriff, county attorney, and jailer of each county shall receive a *maximum monthly* [an annual] salary of *one-twelfth (1/12)* of \$12,600, to be paid solely out of the statutory fees and salaries received by him during the calendar year.

Section 2. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (6) and (7) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535.

(2) The county attorney of each county shall receive a reasonable annual salary to be fixed by the fiscal court. In addition to such salary, the county attorney shall also be entitled to the statutory fees of his office, but his annual salary as fixed by the fiscal court plus the fees of his office shall not exceed \$12,600.

(3) For the purposes of this section, master commissioners and receivers in counties other than those containing a population of 75,000 or more, and justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.

(4) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, except as provided in subsection (8), the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(5) In the case of county officers elected by popular vote, the *monthly* [annual] compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(6) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, master commissioner or receiver, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(7) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred fifteen dollars per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed \$8,000 per year, in counties containing cities of the second class it shall not exceed \$7,500 per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent more than the annual compensation paid in the county for the calendar year immediately preceding June 16, 1972, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285, shall be effective as to any member of a fiscal court during his term of office.

(8) Circuit court clerks in counties other than those containing a population of 75,000 or more shall receive as compensation per year the maximum compensation allowed by law for circuit court clerks of this commonwealth, if fees or funds for this purpose are sufficient. The first and second deputies shall be allowed to receive a salary not to exceed \$8,400 per year; and other deputies shall be allowed to receive a salary not to exceed \$6,600 per year. Each circuit clerk shall be allowed to fix the amount of the salary of each of his deputy clerks.

The Committee on Elections and Constitutional Amendments reported **HB 62** with the expression of opinion that the same should not pass.

The Committee on Appropriations and Revenue reported **HB 88** with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 251, HB 252, HB 268, and HB 305** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 251, AN ACT relating to energy development and demonstration; and making an appropriation.

WHEREAS, the future growth and prosperity of the United States is dependent upon further development of domestic sources of energy; and

WHEREAS, coal is a major domestic resource to meet our Nation's growing demand for energy; and

WHEREAS, Kentucky is one of the leading coal producing states in our Nation and has a significant portion of our Nation's known coal reserves; and

WHEREAS, environmental standards pose limitations on the direct use of certain types of Kentucky coals as fuels; and

WHEREAS, further development of technology for the conversion of Kentucky coals into clean fuels in liquid, gaseous, and solid forms will contribute to the future growth and prosperity of our Commonwealth and Nation and the improvement of the quality of the environment; and

WHEREAS, the costs and financial risks in the further development of such technology are too great for private industry alone to bear; and

WHEREAS, the Federal government has existing programs and pending legislation to promote and support the development and demonstration of the production of energy from clean fuels; and

WHEREAS, the Commonwealth of Kentucky has appropriated millions of dollars in the last four decades for agricultural research, development and demonstration with proven positive effect on Kentucky's agricultural economy and the conservation of Kentucky's land resources; and

WHEREAS, the Government of the Commonwealth of Kentucky has a responsibility to foster economic development through encouragement of the location and expansion of private industry and has implemented this responsibility in various ways, including investments in roads, schools, parks and other public facilities and services; and

WHEREAS, investment of state funds in the design, construction and/or operation of pilot and demonstration plants for the conversion of coal into clean fuels in liquid, gaseous, and solid forms and in the acquisition and development of land, roads, and other public facilities incidental and necessary to the construction and operation of such plants is deemed to be an essential function of state government in the further development of technology for the conversion of Kentucky coals into clean fuels and will serve the public interest by helping to assure future economic growth and prosperity and environmental improvement;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 152 is created to read as follows:

It shall be the policy of the Commonwealth of Kentucky to encourage and promote the development and demonstration of efficient, environmentally acceptable and commercially feasible technologies, techniques, and processes for conversion of coal into clean fuels in liquid, gaseous, or solid forms.

(a) This policy may be implemented by contracts and agreements with the Federal government and its agencies and/or with other organizations, including private industry, and through organizations that may be formed jointly by the state, the Federal government or its agencies, and private industry to conduct developmental and demonstration projects in such organizational form or legal entity deemed appropriate by the participants.

(b) This policy may be implemented by the expenditure of state funds for the preliminary engineering and planning, design, construction, and/or operation of developmental and demonstrative projects in Kentucky, including pilot and demonstration plants, and for the acquisition and improvement of land, construction of roads, and provision of other public facilities incidental and necessary to the accomplishment of developmental and demonstrative projects in Kentucky; provided that the expenditure of state funds for the construction and/or operation of projects shall be limited to projects for which funds of the federal government have also been committed by grant, loan or other contractual agreement with the Commonwealth, or one or more of its political subdivisions, or one or more corporations doing business in the Commonwealth of Kentucky.

(c) This policy may be implemented by the sale or lease of state property or property rights to organizations engaged in developmental and demonstrative projects in Kentucky, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation under this Act in developmental and demonstrative projects.

(d) This policy may be implemented by acquisition by purchase, and if the Commonwealth is unable to contract or agree with the owner after a good faith effort to do so, by the exercise of eminent domain the fee simple title to, or any acceptable lesser interest in such lands, rights of way, franchises, or easements, including submerged lands and riparian rights that are necessary for the construction, use or operation of any authorized demonstration project or projects and for the construction and operation of a line of railroad, truck road, overhead conveyor, pipeline or other transportation facilities for the transportation of coal, water, or other materials and supplies, to the authorized demonstration project or projects from the most convenient and accessible point on a railroad, navigable stream, or coal mine together with the necessary rights of ingress

and egress to construct, examine, alter, repair, maintain, operate, or remove such transportation facilities. The proceedings for condemnation shall be as provided in KRS 416.410 to 416.530.

(e) This policy may be implemented by contracts and agreements for the Commonwealth to purchase all or a portion of the usable output of developmental and demonstration projects, either for a fair and reasonable consideration or solely or partly as all or a portion of the state's participation under this Act in developmental and demonstrative projects, and to dispose of this output by use in state facilities or by resale at fair market value.

Section 2. A new section of KRS Chapter 152 is created to read as follows:

The Secretary of the Development Cabinet, with the approval of the Governor, may execute contracts to design, construct, or operate development or demonstration projects. To such end, the Secretary may execute such agreements up to a maximum of fifty million dollars (\$50,000,000) for the period July 1, 1974 to January 1, 1979. Funds required under such agreement shall be deemed a necessary governmental expense and paid by the State Treasurer upon approval of the Executive Department for Finance and Administration. A copy of each agreement executed shall be filed with the Legislative Research Commission.

Section 3. A new section of KRS Chapter 152 is created to read as follows:

The Secretary of the Development Cabinet may, if any project is deemed economically feasible, request the State Property and Buildings Commission to issue revenue bonds pledging proceeds, including the severance tax on coal produced as a result of the project, for debt service to meet monetary commitments under any contract executed.

Section 4. A new section of KRS Chapter 152 is created to read as follows:

Any proceeds realized from contracts executed, except where revenue bonds are issued, shall be deposited to the "Fund" created herein, up to the fifty million dollars (\$50,000,000) authorized and any excess shall accrue to the General Expenditure Fund. Any balance in the Fund upon expiration of all contracts shall revert to the General Expenditure Fund.

Section 5. A new section of KRS Chapter 152 is created to read as follows:

The General Assembly recognizes that the chance of failure as well as the promise of success affects the developmental and demonstration projects for which state support and joint participation is herein authorized. The liability of the Commonwealth in such projects shall be limited to the express provisions of the contracts and agreements herein authorized, and the Commonwealth's claims against other participants in projects herein authorized shall also be limited to the expressed provisions of such contracts and agreements. The Secretary of the Development Cabinet, or his successor, and agents shall be held harmless by the Commonwealth in the event of failure, abandonment, or termination of any project prior to completion, and the Commonwealth shall defend and indemnify the Secretary, his successor, and agents against any suits related to the administration of this Act to the extent funds are available in the Indemnity Account authorized in Section 8.

Section 6. A new section of KRS Chapter 152 is created to read as follows:

The General Assembly recognizes that although the purpose of this Act is to promote and encourage the development and demonstration of commercially feasible and environmentally acceptable technologies, techniques, and processes, state funds shall not be used directly to assist private industry in production for profit. Therefore, the Commonwealth shall not provide further support of or participation in any project if and when the environmentally acceptable output of the project can be sold or otherwise used to yield a profit to the project. In such event, or in the event of abandonment or termination of a project, the Commissioner, Executive Department for Finance and Administration shall negotiate terms and conditions in an agreement or contract of participation which (a) shall provide for the repayment to the Commonwealth of all funds held and moneys realized from the sale or liquidation of the assets of the joint demonstration project in the same proportion as the Commonwealth's share in the total of funds, property, or other assets expended, contributed, or invested in the project; and (b) may provide for the preemptive right of any or all of the other participants in the project to purchase the Commonwealth's share of any assets, lands, or property rights acquired or constructed by the joint participants.

Section 7. A new section of KRS Chapter 152 is created to read as follows:

The Secretary of the Development Cabinet may, with the prior approval of the Commissioner, Executive Department for Finance and Administration, employ staff to assist in the administration of this Act and the costs may be charged against the Fund.

Section 8. A new section of KRS Chapter 152 is created to read as follows:

(1) There is hereby established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Development and Demonstration Trust Fund," herein referred to as the "Fund." The Fund shall consist of such amounts as may be appropriated by the General Assembly, interest earned on monies of the Fund, grants, or private contributions for the purpose of implementing this Act. The Fund shall be managed by the Secretary for the Development Cabinet and all expenditures therefrom must be approved by the Secretary or his designated representative or the successor positions. Unexpended balances in the Fund shall be invested in interest-bearing obligations of the United States or in obligations guaranteed as to both

principal and interest by the United States, of maturities not in excess of five years, and the interest on and proceeds from the sale or redemption of any investments held in the Fund shall be credited to and form a part of the Fund.

(2) It shall be the duty of the Secretary for the Development Cabinet or his delegate to manage the Fund for the purposes authorized herein, and to use the Fund to satisfy the obligation of the state to share proportionally with the federal government and any private participant or participants the capital costs and expenses of any authorized demonstration project or projects. If expenditures from the Fund have not been made or committed as a part of the Commonwealth's obligation for financial participation in any development or demonstration project on or before January 1, 1979, the entire Fund shall revert to the General Expenditure Fund of the Commonwealth.

(3) The Commissioner of the Executive Department for Finance and Administration is hereby authorized to establish an "Indemnity Account" within the "Fund" and to allocate monies to the Account from funds appropriated or otherwise available in the Fund. The Indemnity Account shall be used to satisfy any court judgments under Section 5 of this Act to the extent that monies are available in said Indemnity Account.

Section 9. There is hereby appropriated from the General Expenditure Fund in the State Treasury to the "Fund," seven million dollars (\$7,000,000) for the fiscal year beginning July 1, 1974.

HB 252, AN ACT relating to fossil fuels, hydrocarbons and other natural resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.310 is amended to read as follows:

As used in KRS 152.310 to 152.390, unless the context requires otherwise, the term "research" includes scientific, technical, and economic research and the practical application of that research; *the term "Secretary" shall mean the Secretary for Development.*

Section 2. KRS 152.320 is amended to read as follows:

The *Secretary* [department] shall formulate and execute an extensive overall research program designed to develop new and more effective uses for *fossil fuels, hydrocarbons* [coal] and other natural resources and to improve and expand existing uses for *fossil fuels, hydrocarbons* [coal] and other natural resources.

Section 3. KRS 152.330 is amended to read as follows:

The *Secretary* [department] shall:

(1) Contract for, sponsor, cosponsor, and promote the coordination of research projects conducted by the federal government and its agencies, industrial associations, educational institutions, qualified nonprofit organizations, qualified private consulting firms, *private industry*, and other agencies. In this phase of the program the *Secretary* [department] shall attempt to make use of every existing suitable research facility in Kentucky;

(2) Collect and promote the coordination of all available research information on the production, preparation, distribution, and uses of *fossil fuels, hydrocarbons* [coal] and other natural resources;

(3) Make available to the public generally all information, uses, products, processes, patents, and other developments resulting from research authorized by KRS 152.310 to 152.390;

(4) Cooperate to the fullest extent possible with all state government agencies, federal government agencies, departments, independent establishments, and all other interested agencies, governmental and nongovernmental, public and private, domestic and foreign. Before the *Secretary* [department] initiates any research under the authority of KRS 152.310 to 152.390 *he* [it] shall first consult with such departments, agencies, or independent establishments of the federal government and of state governments in order to avoid duplication of effort and expense;

(5) Conduct research projects itself only when *he* [it] is unable to contract or otherwise provide for the desired research to be conducted by any other qualified organization or medium on reasonable terms and conditions.

Section 4. KRS 152.340 is amended to read as follows:

(1) Whenever in the estimation of the *Secretary* [department] the purposes of KRS 152.310 to 152.390 would be furthered through the use of patented processes or equipment, the *Secretary* [department] is authorized to enter into such agreements as *he* [it] deems necessary for the acquisition or use of such patents on reasonable terms and conditions.

(2) The *Secretary* [department] is authorized to acquire by condemnation, purchase, lease, or otherwise such real property as may be necessary to enable *him* [it] to carry out *his* [its] duties under KRS

152.310 to 152.390.

(3) The *Secretary* [department] may accept funds that are donated or otherwise made available to *him* [it], and spend them in the program established by KRS 152.310 to 152.390.

Section 5. KRS 152.350 is amended to read as follows:

(1) The *Secretary* [department] may conduct the program established by KRS 152.310 to 152.390 from one (1) physical office. The office may be located in or near a government or academic research center, and it may be moved.

(2) The *Secretary* [department] may employ a research specialist to conduct the program established by KRS 152.310 to 152.390, and such other employes as may be necessary. The research specialist shall be a person with experience in industrial or chemical research.

Section 6. KRS 152.360 is amended to read as follows:

The *Secretary* [department] may finance studies by academic institutions or academic persons under the program established by KRS 152.310 to 152.390. The *Secretary* [department] shall recommend to the governor the institutions and persons to which and the specific purposes for which study grants should be made, and grants shall be made by the governor. In making *his* [its] recommendations the *Secretary* [department] may call special attention to institutions or persons that have developed or promise to develop a new chemical, a new by-product, or another derivative from *fossil fuels, hydrocarbons* [coal] or other natural resources.

Section 7. KRS 152.380 is amended to read as follows:

The governor is authorized to further the program established by KRS 152.310 to 152.390 by entering into appropriate agreements with *the federal government and with* other states.

Section 8. KRS 152.390 is amended to read as follows:

In cooperation with the Superintendent of Public Instruction, *the Council on Public Higher Education* and the governing bodies of the state institutions of higher learning, the *Secretary* [department] shall, wherever feasible, make plans and provisions for extending the program established by KRS 152.310 to 152.390 into the regular courses of instruction in chemistry in the public high schools and junior colleges, and state universities and colleges.

Section 9. KRS 152.370 is hereby repealed.

HB 268, AN ACT relating to claims upon the treasury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.060 is amended to read as follows:

When any state officer, member of a state board or commission, or any subordinate officer, agent or employe thereof is authorized by law to and does incur, in the discharge of his official duties, any expense incident to traveling in his own motor vehicle, the amount allowed for such expense shall be fixed by the commissioner of finance; [not to exceed ten cents (10) per mile over the nearest traveled route over which he has traveled,] which sum shall include depreciation and investment charges incident to the operation of the motor vehicle.

HB 305, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Corporation" means the Kentucky Housing Corporation created by this chapter;

(3) "Sponsors", "builders" or "developers" means non-profit corporations, consumer housing cooperatives and limited dividend housing corporations organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to lower income persons and families;

(4) "Development costs" means the costs approved by the corporation as appropriate expenditures which may be incurred by sponsors, builders and developers of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties,

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses,

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work,

(d) Expenses for tenant surveys and market analyses, and

(e) Necessary application and other fees;

(5) "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(6) "Governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the Commonwealth, the federal government, any other state or public agency, or any two or more thereof;

(7) "Housing Development Fund" means the housing development fund created by KRS 198A.080;

(8) "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage *either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; (b) the Commonwealth of Kentucky or any agency or instrumentality thereof; or (c) any other entity which has been duly approved for the insuring of such loans by the United States of America or any agency or instrumentality thereof* [federal mortgage or a federally insured mortgage or which is insured by the United States or an instrumentality thereof, or for which there is a commitment by the United States or an instrumentality thereof to insure such a loan];

(9) "Insured mortgage" or "Insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing *either made, insured or guaranteed by or for which there is a commitment to make, insure and guarantee by, (a) the United States of America or any agency or instrumentality thereof; (b) the Commonwealth of Kentucky or any agency or instrumentality thereof; or (c) any other entity which has been duly approved for the insuring of such loans by the United States of America or any agency or instrumentality thereof* [made insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to make or insure such a mortgage];

(10) "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower income and making, installing or constructing non-residential housing improvement, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare such land primarily for residential housing construction;

(11) "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(12) "Persons and families of lower income" means persons and families of insufficient personal or family income as determined by the standards established *by the corporation* [for the state of Kentucky by the United States Department of Housing and Urban Development and the Farmers Home Administration for federally assisted residential housing programs for lower and moderate income persons and families];

(13) "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other non-housing facilities as may be incidental or appurtenant thereto;

(14) "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs;

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family;

(15) "State" means the Commonwealth of Kentucky.

Section 2. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established as a governmental instrumentality of the Commonwealth, to be independent of the Executive Branch, a public body corporate to be known as the Kentucky Housing Corporation.

(2) The housing corporation is created and established to serve a public purpose and to act for the public benefit and as a governmental instrumentality of the Commonwealth to act on behalf of the Commonwealth and its people in improving and otherwise promoting their health, welfare and prosperity.

(3) The housing corporation shall be governed by a board of directors, consisting of thirteen members, five of whom shall be the *Commissioner of the Executive Department for Finance and Administration, the Director of the Office for Local Government*, [the Commissioners of Finance, the Administrator of the Kentucky Program Development Office,] the Attorney General, the Commissioner of Revenue, and the Commissioner of Commerce, or their duly appointed designees, as public directors, and eight of whom shall be chosen from the general public residing in the Commonwealth, as private directors.

(4) Upon organization of the housing corporation, the Governor shall appoint the eight private directors to take office and to exercise all powers thereof immediately. Of the eight members of the corporation thus appointed, two shall continue in office for terms of one year, and two for terms of two, three and four years respectively as the Governor shall designate; at the expiration of said terms and for all succeeding terms, the Governor shall appoint a successor to the office of private director for a term of four years in each case.

(5) In case of a vacancy, the Governor may appoint a person for such a vacancy to hold office during the remainder of the term.

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for such vacancy as provided in other cases of vacancy.

(7) The Governor shall designate a member of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a member of the corporation or a date six months after the expiration of the then current term of the Governor designating such chairman.

(8) The corporation shall annually elect one of its members as vice chairman. The corporation shall also elect or appoint, and prescribe the duties of, such other officers as the corporation deems necessary or advisable, including an executive director and a secretary, and the corporation shall fix the compensation of such officers.

(9) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the members of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies.

(11) Action shall be taken by the corporation upon a vote of a majority of the members present at a meeting called upon three days' written notice to each director or upon the concurrence of at least seven directors.

(12) Directors shall receive no compensation for their services but shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter.

Section 3. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans are not otherwise available, wholly or in part, from

private lenders upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower income for residential housing [where the corporation has given approval prior to the initial making of such loan:] provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans were[, at the time such approval was given,] not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the Housing Development Fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, *lease or sublease* or otherwise; to own, manage, operate, hold, clear, improve and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation.

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, [and] operate, *lease and sublease* residential housing for persons and families of lower income and to enter into agreements or other transactions with any federal, state or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need.

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two years from their date, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors, builders and developers of residential housing and to residents and potential residents thereof, *including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources*;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) *To make, execute and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this Chapter; [To make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this chapter, including contracts with any person, firm, corporation, governmental agency or other entity, and each and any Kentucky governmental agency is hereby authorized to enter into contracts and otherwise cooperate with the corporation to facilitate the purposes of this chapter;]*

(17) *To accept gifts, devises, bequests, grants, loans, appropriation, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto [To receive, administer and comply with the conditions and requirements respecting any appropriation or any gift, grant or donation of any property or money];*

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the City of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties; [and]

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;[.]

(23) *To invest any funds held in reserve or in sinking fund accounts or any monies not required for immediate disbursement in obligation guaranteed by the State, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;*

(24) *To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonable equivalent terms and conditions;*

(25) *To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance or reinsurance shall be made only upon the determination by the corporation that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonable equivalent terms and conditions;*

(26) *To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, builders, developers, municipalities, local housing authorities and to owners of residential housing for the development construction, rehabilitation or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation; and*

(27) *To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of low income.*

Section 4. KRS 198A.050 is amended to read as follows:

(1) In the administration of the programs authorized by or receiving benefits under KRS 198A.040, the Executive Director of the Kentucky Housing Corporation shall require:

(a) That to the greatest extent feasible opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing assisted under such programs shall be given to persons of lower income residing in the area of such housing; and

(b) That to the greatest extent feasible contracts for work to be performed pursuant to such programs shall be awarded to business concerns, including but not limited to individuals or firms doing business in the fields of design, architecture, building construction, rehabilitation, maintenance or repair, located in or owned in substantial part by persons residing in the area of such housing.

(2) In the administration of rental residential housing assisted under this chapter, the Executive Director of the Kentucky Housing Corporation shall require maximum feasible tenant participation and responsibility in tenant programs and services.

(3) The Executive Director of the Kentucky Housing Corporation shall establish standards of performance for materials, methods and design which meet the minimum requirements of *appropriate federal or state agencies* [the Federal Housing Administration or the Farmers Home Administration, and all construction assisted under this chapter shall meet said performance standards].

Section 5. KRS 198A.080 is amended to read as follows:

(1) There is hereby created and established a special revolving loan fund to be known as the Housing Development Fund and to be administered by the corporation as a trust fund separate and distinct from any other moneys or funds administered by the corporation.

(2) The Housing Development Fund shall be comprised of *and the corporation is hereby authorized to receive and accept for the Housing Development Fund the proceeds of grants, contributions, appropriations, repayment of loans made from the fund, the proceeds of fund notes and any other monies which may be made available to the corporation for the purposes of the Housing Development Fund from any other source* [the proceeds of grants and contributions and of fund notes issued by the corporation for the purpose of providing funds therefor]. The corporation is hereby authorized to receive and accept from any source whatever any grants or contributions for the Housing Development Fund. The corporation is further authorized to provide for the issuance, at one time or from time to time, of Housing Development Fund notes for the purpose of providing funds for such Fund; provided, however, that not more than \$5,000,000 fund notes shall be outstanding at any one time. The principal of and the interest on any such fund notes shall be payable solely from the Housing Development Fund. The fund notes of each issue shall be dated, shall mature at such time or times not exceeding ten years from their date or dates, and may be made redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state or any agent, including the lender. In case any officer whose signature or a facsimile of whose signature shall appear on any fund notes or coupons attached thereto shall cease to be

such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon fund notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Any such fund notes shall bear interest at such rate or rates as may be determined by the corporation and may be sold in such manner, either at public or private sale, and for such price as the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter.

(3) The proceeds of any fund notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the corporation may provide in the resolution authorizing the issuance of such fund notes. The corporation may provide for the replacement of any fund notes which shall become mutilated or shall be destroyed or lost.

(4) Fund notes may be issued under the provisions of this section without obtaining the consent of any department, division, commission, board, body, bureau or agency of the state, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this chapter and the provisions of the resolution authorizing the issuance of such fund notes.

(5) The purpose of the Housing Development Fund is to provide a source from which the corporation may make temporary loans, and the corporation is authorized to make temporary loans from the Housing Development Fund, at such interest rate or rates as may be determined by the corporation to be for the best interest of the corporation and best effectuate the purpose of this chapter, and with such security for repayment as the corporation deems reasonably necessary and practicable, to:

- (a) Defray development costs of sponsors, builders and developers of residential housing, or
- (b) Provide to persons and families of lower income who are applying for mortgages, the amounts required to make down payments and pay closing costs, or
- (c) Make or participate in the making of construction loans which are not federally insured to sponsors, builders and developers of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(6) No temporary loans shall be made by the corporation from the Housing Development Fund except in accordance with a written agreement which shall include, without limitation, the following terms and conditions:

- (a) The proceeds of such loan shall be used only for the purpose for which such loan shall have been made as provided in the agreement;
- (b) Such loan shall be repaid in full as provided in the agreement;
- (c) All repayments in connection with a loan to defray development costs shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage loan, as the case may be, or at such other times as the corporation deems reasonably necessary or practicable; and
- (d) Such security for repayment shall be specified and shall be upon such terms and conditions as the corporation deems reasonably necessary or practicable to insure all repayments.

(7) No funds from the Housing Development Fund shall be used to carry on propaganda or otherwise attempt to influence legislation.

Section 6. KRS 198A.090 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance, at one time or from time to time, of not exceeding \$200,000,000 bonds of the corporation to carry out and effectuate its corporate purposes *and powers*. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten years from their date or dates and bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the

delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(3) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(4) Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the State Property and Buildings Commission, pursuant to the provisions of KRS Chapter 56.

(5) The Department of Finance shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

Section 7. KRS 198A.190 is amended to read as follows:

The corporation is authorized to accept *and expend* such moneys as may be appropriated from time to time by the General Assembly *or such monies as may be received from any source including income from the Corporation's operations*, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation and the establishment of a reserve or contingency fund to be available for the payment of the principal of and the interest on any bonds or notes of the corporation.

Section 8. A new section of KRS Chapter 198A is created to read as follows:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for housing purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the Board of Directors of the Corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the Corporation in connection with any such bond issue or note issue should, in violation of any contract made by the Corporation with any bondholder or note holder be monetarily deficient in any respect as of any date of accounting so stipulated by the Corporation, the Corporation shall immediately make formal request in writing to the Commissioner of the Executive Department for Finance and Administration, and to the Governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the Corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the General Assembly to the Corporation for the use and benefit of such reserve fund or replacement fund. In the event the next scheduled regular session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the Corporation, the Corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the Corporation, be made available from the Governor's Contingency Fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

Section 9. KRS 198A.200 is amended to read as follows:

The Commonwealth of Kentucky hereby covenants, with due regard to Section 175 of the Constitution of the Commonwealth of Kentucky, with the holders of the notes and bonds issued by the *corporation* [housing fund] to carry out and effectuate its corporate purpose pursuant to this chapter that the *corporation* [housing fund] shall not be required to pay any taxes and assessments to the Commonwealth of Kentucky, or any county, municipality or other governmental subdivision of the Commonwealth of Kentucky, upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this chapter, or upon any monies, funds, revenues or other income held or received by the *corporation* [housing fund] and that the notes and bonds of the *corporation* [housing fund] and the income therefrom shall at all times be exempt from taxation, as aforesaid, except for death and gift taxes and taxes of transfers; provided, however, that real property owned by the Kentucky Housing Corporation shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the corporation may agree to

pay, in lieu of such taxes, such amounts as the corporation finds consistent with the cost to the state or political subdivision of supplying municipal services to the housing development and maintaining the economic feasibility of the housing development, which payments such bodies are hereby authorized to accept.

The Committee on Highways and Traffic Safety reported **HB 212** with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Highways and Traffic Safety reported **HB 133** with Committee Amendment attached thereto, **HB 167**, **HB 375**, **HB 390**, **HB 391**, with Committee Amendment attached thereto, **HB 407** with Committee Substitute attached thereto, **HB 421**, **HB 422**, and **HR 26** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 133, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.390 is amended to read as follows:

(1) No operator of a vehicle upon a highway shall drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(2) Where no condition exists that requires lower speed for compliance with subsection (1) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(a) For all vehicles other than motor trucks, semitrailer trucks, or motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, sixty miles (60) per hour in other locations during the daytime and fifty miles (50) per hour in other locations during the nighttime;

(b) For motor truck and semitrailer trucks, thirty-five (35) miles per hour in any business or residential district, *sixty [fifty (50)] miles per hour in other locations[.] during the daytime and fifty miles per hour in other locations during the nighttime;*

(c) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location.

(3) Whenever the commissioner of highways shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or upon any part of a state highway within or without the corporate limits of a municipality, said commissioner of highways may determine and establish by official order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or part of the state highway. In no event, however, shall said commissioner increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(4) (a) Whenever municipal authorities or the county court of any county containing a city of the first class or second class determine upon the basis of an engineering and traffic investigation that the speed permitted under subsection (2) of this section is greater or less than is reasonable or safe under the conditions found to exist, at any location within the municipality or unincorporated areas of such county, such municipal authority or county court, subject to paragraph (b) of this subsection, shall determine and authorize by ordinance or order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such times as may be determined when appropriate signs giving notice thereof are appropriately erected at such location. In no event, however, shall said municipal authority or county court increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(b) Alteration of speed limits on state highways within a municipality by municipal authorities or within the unincorporated areas of counties containing a city of the first class or second class by county courts thereof shall not be effective until such alteration has been approved by the commissioner of highways. In no event shall said commissioner approve any alteration which could increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(c) Whenever the county court of any county containing a city of the first class or second class determines upon the basis of an engineering and traffic investigation and study that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce such congestion, then the county court may by order establish "no parking" areas on and along said highway, or limit the length of time any motor vehicle may be parked in any business district, which order or orders shall be effective at all times and during hours of daytime or nighttime and at such other times as may be determined when appropriate signs giving notice thereof are erected at such locations.

(d) Notwithstanding the other limitations in this subsection, the commissioner of highways may establish, by official order, reasonable and safe speed limits on turnpikes and limited access state highways not to exceed seventy (70) miles per hour.

(5) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(6) In every charge for a violation of any speed limit specified in this section or established as herein authorized, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, also the lawful speed limit applicable at the location where the violation is charged to have occurred.

(7) As used in this section, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Business district," the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes which occupy 300 feet of frontage on one side or 300 feet collectively on both sides of the highway;

(b) "Residential district," the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business;

(c) "State highway," a highway or street maintained by the department of highways;

(d) "Nighttime," the period from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, and at such other periods as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period; "daytime" means at any other period.

(8) The signs and notices which the county judge is authorized hereby to have erected shall be paid for by the fiscal court of the county levy.

The Committee Amendment to **HB 133** is as follows:

Amend printed copy of House Bill 133, page 6, following line 5, by adding a new section as follows:

"Section 2. This Act shall become effective on and after the date on which the President declares there is not a fuel shortage under the provisions of **HR 11372** or on June 30, 1976, whichever date occurs first."

HB 167, AN ACT relating to the construction, reconstruction and maintenance of urban roads and streets by an incorporated area or unincorporated urban place.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 177 is created to read as follows:

(1) An incorporated area or unincorporated urban place may elect, with the concurrence of the bureau of highways, to construct, reconstruct, or maintain urban roads and streets which are included in the bureau of highways' state primary road system and are maintained by the bureau of highways.

(2) The bureau of highways cannot initiate the expenditures of funds allocated pursuant to KRS 177.365 on any roads or streets classified by the bureau of highways as being a part of the state primary road system as defined in KRS 177.020.

HB 375, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.570 is amended to read as follows:

(1) The department or its agent designated in writing for that purpose may deny any person a license or may immediately suspend the license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, with or without hearing, and with or without receiving a record of conviction of that person of a crime, whenever the department has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws[.], *except that no license shall be suspended under a system of assessing penalty points for traffic violations unless the person has accumulated twelve points within a two-year period.*

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(2) The department may suspend the license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky license, the department shall deny him a license for the same period as if he had possessed a license and license had been suspended. The department may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident. The Department of Public Safety is forbidden from suspending or revoking a motor vehicle or motorcycle operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations and shall not apply to other motor vehicle offenses, nor shall this section apply to any new applicant for a Kentucky motor vehicle operator's license.

(3) Each license which has been cancelled, suspended or revoked shall be surrendered to and retained by the department. At the end of the period of cancellation, suspension or revocation the license may be returned to the licensee.

HB 390, AN ACT relating to motor vehicles and boats or boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.765 is amended to read as follows:

Any peace officer, including sheriffs and their deputies, constables and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, and special officers appointed by any agency of the commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles *and boats or boating*, now existing or hereafter enacted, shall be authorized and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles *and boating*, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than five hundred dollars [(\$500)],

conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six [(6)] days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen [(18)] hours after taking such bond.

HB 391, AN ACT relating to the issuing of driver's licenses to epileptics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 186 is created to read as follows:

Whenever a person with an epileptic condition applies for a driver's license, or applies for a renewal of a driver's license, he shall present to the Division of Driver Licensing certification by a physician that his condition is controllable by drugs, a detailment of the drugs and dosages of same which the person takes, and a statement that he has been free of any seizures for one year before the date of the application. The division will then issue him a letter of authorization to present to the Circuit Court Clerk.

The Committee Amendment No. 2 to **HB 391** is as follows:

Amend printed copy of House Bill 391, page 1, line 8, by striking out the words "and a" and substituting therefor the words "his own"

and on page 1, line 10, by changing the period to a comma and inserting after the word "application" the following: "and that he is taking the medication prescribed by his physician."

HB 407, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.056 is amended to read as follows:

(1) Whenever the ownership of a vehicle which has been registered at a declared gross weight in excess of 18,000 pounds under KRS 186.050 is changed, a refund of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be refunded as provided for destroyed vehicles in KRS 186.120 (1) and in accordance with regulations adopted hereunder.

(2) In the event a vehicle is registered in accordance with KRS 186.050 (11) the seller may obtain a refund of the portion of the tax which he had theretofore paid allocable to the remaining complete quarters of the unexpired period for which the tax was paid in the same manner as provided for destroyed vehicles in KRS 186.120, and in accordance with regulations adopted hereunder.

(3) In the event the use of a vehicle which has been registered according to the terms of any proportional registration agreement pursuant to the provisions of KRS 186.050(14), is permanently discontinued by the registrant, a refund of that portion of the tax which the registrant had heretofore paid to the department, allocable to the remaining complete quarters of the unexpired period for which the tax was paid may be made to the registrant or a credit of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be applied toward the registration of any other vehicle during the current registration period by the registrant. The department shall have the authority to promulgate regulations regarding such refunds or credits.

The Committee Substitute for **HB 407** is as follows:

HB 407, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.056 is amended to read as follows:

(1) Whenever the ownership of a vehicle which has been registered at a declared gross weight in excess of 18,000 pounds under KRS 186.050 is changed, a refund of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be refunded as provided for destroyed vehicles in KRS 186.120 (1) and in accordance with regulations adopted hereunder.

(2) In the event a vehicle is registered in accordance with KRS 186.050 (11) the seller may obtain a refund of the portion of the tax which he had theretofore paid allocable to the remaining complete quarters of the unexpired period for which the tax was paid in the same manner as provided for destroyed vehicles in KRS 186.120, and in accordance with regulations adopted hereunder.

(3) *In the event the use of a vehicle which has been registered according to the terms of any proportional registration agreement pursuant to the provisions of KRS 186.050(14), is permanently discontinued by the registrant, a refund of that portion of the tax which the registrant had heretofore paid to the department, allocable to the remaining complete quarters of the unexpired period for which the tax was paid may be made to the registrant or a credit of that portion of the tax paid allocable to the remainder of the unexpired period for which the tax was paid may be applied toward the registration of any other vehicle during the current registration period by the registrant. The department shall have the authority to promulgate regulations regarding such refunds or credits.*

Section 2. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be \$11.50.

(2) The annual registration fee for each motorcycle shall be \$5.00, and for each sidecar attachment, \$3.00.

(3) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle and any Towed Unit	Registration Fee
0- 6,000	\$ 11.50
6,001-10,000	24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-62,000	588.00
62,001-73,280	750.00

(4) (a) Any farmer owning a truck having a gross weight of 30,000 [26,000] pounds or less may have it registered as a farmer's truck and obtain a license for \$11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 30,000 [26,000] pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 30,000 [26,000] pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay 40% of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm, and the vehicle registered will not be operated more than fifty air miles from his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six

inches high and of a conspicuous color and the truck or bus will be used during the next twelve months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus", with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tippie, where such railhead or tippie is located at a point not more than fifty air miles from the point at which such coal is mined, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the Department of Revenue copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for \$1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056 (2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be \$20.00 and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The Department of Motor Transportation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use

made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in KRS 186.050.

(b) Any owner of a commercial vehicle who is required to register his motor vehicle under this section shall first register such vehicle with the county clerk pursuant to KRS 186.020 for a fee of \$1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. The department shall promulgate regulations in accordance with this section.

Section 3. KRS 186.650 is amended to read as follows:

As used in KRS 186.650 to 186.700:

(1) A "trailer" means any vehicle designed for carrying persons or property and being drawn by a motor vehicle being so constructed that no part of its weight rests upon the towing vehicle.

(2) "Semitrailer" means any vehicle designed for carrying persons or property and for being drawn by a motor vehicle and is so constructed that some part of its weight and some part of its load rests upon or is carried by another vehicle, *except that*:[.]

(a) "Semitrailer" shall not include farm fifth-wheel gooseneck trailers mounted in the bed of a pickup truck and used by a farmer only for transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation and the products grown on his farm.

(3) "Housetrailer" means any vehicle used, or maintained for use, as a conveyance upon highways, designed and constructed in such a manner as will permit occupancy thereof as a temporary dwelling, or as sleeping places for one or more persons, or the conduct of any business or profession, occupation or trade having no other foundation than wheels or jacks, and not being used in one location as a permanent dwelling.

(4) "Camping trailer" means any housetrailer less than twenty-five (25) feet in length and includes a trailer which may be expanded for camping purposes.

(5) "Department" means the department of motor transportation.

HB 421, AN ACT relating to driver training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 332.110 is amended to read as follows:

This chapter shall not apply to any school or educational institution which offers [to full time, regularly enrolled students] as a part of its curriculum a course in driving instruction nor to automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles nor to employers who give instruction without charge to their employees.

HB 422, AN ACT relating to registration of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.060 is amended to read as follows:

(1) Applications for registration of motor vehicles owned exclusively by a county, city, *urban county*, or board of education in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the department, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and the official number plate described in KRS 186.240 (3), and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of fifty cents (50) in each instance, to be paid by the

department upon whose authorization such license was issued.

(2) After such registration of any vehicle owned exclusively by a county, city, *urban county*, or board of education in the state or by the state or federal government and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by such governmental unit except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) When a motor vehicle owned exclusively by a county, city, *urban county*, or board of education in the state or by the state or federal government is transferred or sold to another governmental unit a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.

(4) No person shall use on a motor vehicle, not exclusively owned by a county, city, *urban county*, board of education in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle owned by such a governmental unit.

HR 26, A CONCURRENT RESOLUTION urging and petitioning the United States Congress to increase the maximum speed limit for trucks to 60 miles per hour on interstate highways.

WHEREAS, the Congress of the United States of America has by passage of **HR 11372** required that a speed limit of 55 miles per hour be imposed on the Nation's highways in order to conserve fuel, and

WHEREAS, failure to comply with **HR 11372** could cause the Commonwealth of Kentucky to lose all of its Federal Highway Aid under 23 U.S.C. 106, and

WHEREAS, the transport industry contends that trucks are designed to perform with a higher degree of efficiency and to use less fuel per ton mile at a speed of 60 miles per hour than at 55 miles per hour,

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States of America is requested to increase the speed limit for trucks to 60 miles per hour on any portion of any interstate highway.

Section 2. That the Clerk of the House of Representatives is hereby directed to transmit an appropriate copy of this Resolution to the President of the United States, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Senator and Representative from this State in the Congress of the United States.

The Committee Substitute for **HR 26** is as follows:

HR 26, A CONCURRENT RESOLUTION urging and petitioning the United States Congress to increase the maximum speed limit for motor vehicles to 60 miles per hour on interstate highways.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States of America is requested to increase the speed limit for motor vehicles to 60 miles per hour on any portion of any interstate highway.

Section 2. That the Clerk of the House of Representatives is hereby directed to transmit an appropriate copy of this Resolution to the President of the United States, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Senator and Representative from this State in the Congress of the United States.

The Committee on Judiciary reported **HB 301** and **HB 367** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 301, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 304 is created to read as follows:

All health insurance contracts delivered or issued for delivery in the Commonwealth shall provide lower rates for policies not providing coverage for elective abortions than for policies providing such coverage. An "elective abortion" shall be an abortion for any reason other than to preserve the life of the woman upon whom the abortion is performed.

HB 367, AN ACT relating to actions for wrongful death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half to the widow or husband and the other one-half to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. *In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.*

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

The Committee on Labor and Industry reported **HB 264**, **HB 420**, and **HB 514** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 264, AN ACT relating to Workmen's Compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.215 is amended to read as follows:

The Workmen's Compensation Board shall consist of five members appointed by the Governor and shall be attached to the Department of Labor for administrative services.

(1) Of the members first appointed under this chapter one shall serve until January 1, 1974; one until January 1, 1975; one until January 1, 1976; and two until January 1, 1977. Thereafter, each term shall run for four years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies. *At least one member shall represent and be chosen from labor and at least one shall represent and be chosen from management.* [The members of the board shall have the qualifications required of Circuit Judges.] The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it. Each member of the board shall be paid a salary in accord with the provisions of KRS 64.640.

(2) A decision concurred in by any three members shall constitute a decision of the board, unless there are two unfilled vacancies in which case a majority of the remaining members shall constitute a decision of the board.

(3) The terms of all members of the Workmen's Compensation Board who are in office prior to the effective date of this chapter shall automatically expire on January 1, 1973, any other statute to the contrary notwithstanding.

HB 420, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments and the respective administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive.

- I. Departments headed by elected officers.
 1. The governor.
 2. Lieutenant governor.
 3. Department of state.
 - (a) Board of elections.
 4. Department of law.
 5. Department of the treasury.
 6. Department of agriculture.
 - (a) State board of agriculture.
 - (b) Milk marketing and antimonopoly commission.
 - (c) Egg marketing advisory board.
 - (d) Johnson grass control advisory board.
 - (e) State dog law committee.
 - (f) Termite and pest control examining board.
 7. Department of education.
 - (a) State board of education.
 - (b) School for the deaf advisory board.
 - (c) Council on public higher education.
 - (d) State textbook commission.
 - (e) Kentucky public school authority.
 - (f) Governor's conference on education.
 - (g) School for the blind advisory committee.
 8. Auditor of public accounts.
 9. Railroad commission.
- II. Departments headed by appointed officers:
 1. Department of corrections.
 - (a) Parole board.
 2. Department of commerce.
 - (a) Economic development commission.
 - (b) Resources, research and development advisory committee.
 3. Department of highways.

4. Department of labor.
 - (a) *Worker's*[Workmen's] compensation board.
 - (b) Board of claims.
 - (c) Prevailing wage board.
 - (d) Kentucky industrial safety board.
 - (e) Kentucky apprenticeship council.
5. Department of libraries.
 - (a) State board for the certification of librarians.
6. Department of public safety.
 - (a) Public safety advisory committee.
 - (b) State police personnel board.
7. Department of alcoholic beverage control.
 - (a) Alcoholic beverage control board.
8. Department of banking and securities.
 - (a) Securities advisory committee.
9. Department of insurance.
 - (a) Custodian of insurance securities.
10. Department of motor transportation.
 - (a) General advisory committee for motor vehicle dealers.
11. Public service commission.
12. Department of finance.
 - (a) State property and buildings commission.
 - (b) County debt commission.
 - (c) State archives and records commission.
 - (d) Capitol planning and zoning commission.
 - (e) Board of zoning adjustment and appeals.
13. Department of personnel.
 - (a) Personnel board.
14. Department of public information.
15. Department of revenue.
16. Department of child welfare.
 - (a) Kentucky children's advisory council.
17. Department of economic security.
 - (a) Public assistance appeals board.
 - (b) Advisory council for medical assistance.
 - (c) Unemployment insurance commission.
 - (d) State employment security advisory council.
 - (e) Commission for employment of the physically handicapped.
18. Commission for handicapped children.
19. Department of health.
 - (a) State board of health.
 - (b) Water pollution control commission.
20. Department of mental health.
 - (a) Advisory council on mental health.
 - (b) Advisory council on mental retardation.
 - (c) Kentucky commission on alcohol problems.
21. Tuberculosis hospital commission.
22. Department of parks.
 - (a) Parks board.
 - (b) Breaks Interstate Park commission.
23. Department of natural resources.
 - (a) Flood control and water resources development board.
 - (b) Soil and water conservation commission.
 - (c) Strip mining and reclamation commission.
 - (d) Advisory committee on strip mining and reclamation.
 - (e) Ohio River valley water sanitation commission.
 - (f) Interstate water sanitation board.
24. Department of mines and minerals.
 - (a) Mines and minerals board of examiners.
25. Department of aeronautics.

26. Department of military affairs.
 - (a) Kentucky disabled ex-service men's board.
27. Department of fish and wildlife resources.
 - (a) Fish and wildlife resources commission.

Section 2. KRS 38.235 is amended to read as follows:

(1) The department of military affairs shall accept the provisions of KRS chapter 342 for the benefit of members of the Kentucky national guard while such members are on active state service. Notwithstanding KRS chapter 342, the department of military affairs may purchase additional and extended *worker's* [workmen's] compensation insurance as provided in this section. Notwithstanding KRS 342.070, in the case of death, compensation shall continue without a maximum limitation on the total amount paid, during the period of dependency as defined in KRS 342.075 to 342.085. Notwithstanding KRS 342.095, in the case of permanent and total disability, compensation shall continue without maximum limitation on the total amount paid, during the period of permanent and total disability.

(2) The department may, in lieu of procuring additional extended insurance coverage, elect to avail itself of the provisions of KRS 342.340 relating to the direct payment of benefits, for the purpose of paying the additional extended benefits provided under subsection (1) of this section.

Section 3. KRS 39.428 is amended to read as follows:

(1) Neither the state nor any political subdivision of the state, nor the agents or representatives of the state or any political subdivision thereof, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer civil defense worker, or member of any agency engaged in civil defense activity. The foregoing shall not affect the right of any person to receive benefits or compensation to which he might otherwise be entitled under the *worker's* [workmen's] compensation law or KRS 39.417 and 39.418 hereof or any pension law or any act of congress.

(2) Neither the state nor any political subdivision of the state nor, except in cases of wilful misconduct, gross negligence, or bad faith, the employees, agents, or representatives of the state or any political subdivision thereof, nor any volunteer or auxiliary civil defense worker or member of any agency engaged in any civil defense activity, complying with or reasonably attempting to comply with KRS 39.400 to 39.432 and 39.990, or any order, rule, or regulation promulgated pursuant to the provisions of KRS 39.400 to 39.432 and 39.990, or pursuant to the provisions of KRS 39.400 to 39.432 and 39.990, or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any city of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.

Section 4. KRS 44.070 is amended to read as follows:

(1) A board of claims, composed of the members of the *worker's* [workmen's] compensation board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the commonwealth, any of its departments or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the commonwealth or any of its departments or agencies; Provided, however, regardless of any provision of law to the contrary, the commonwealth, its departments and agencies, and its officers, agents and employees, while acting within the scope of their employment by the commonwealth or any of its departments or agencies, shall not be liable for pain or suffering, and compensation shall not be allowed, awarded, or paid for pain or suffering. Except as hereinafter provided the board shall be independent of all agencies and departments of the commonwealth except as provided in KRS 44.070 to 44.160.

(2) The board shall be composed of five (5) attorneys who are members of the *worker's* [workmen's] compensation board and who have been appointed and hold office under the provisions of KRS 342.215 and 342.220. The members shall not be entitled to additional compensation for their services on the board of claims.

(3) The governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the governor. No member shall, at the same time, serve as chairman of the *worker's* [workmen's] compensation board and as chairman of the board of claims.

(4) The executive secretary, referees and employees of the *worker's* [workmen's] compensation board, without additional compensation, shall be ex-officio the executive secretary, referees and employees respectively of the board of claims.

(5) Regardless of any provision of law to the contrary, the jurisdiction of the board is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed twenty thousand dollars (\$20,000), exclusive of interest and costs.

Section 5. KRS 44.075 is amended to read as follows:

No part of the maintenance fund of the *worker's* [workmen's] compensation board shall be diverted or used to accomplish the purpose of KRS 44.070 to 44.160. Any additional expenses which KRS 44.070 to 44.160 may impose on the *worker's* [workmen's] compensation board shall be paid out of the appropriations from the general fund.

Section 6. KRS 61.080 is amended to read as follows:

(1) No person shall, at the same time, be a state officer, a deputy state officer or a member of the general assembly, and an officer of any county, city or other municipality, or an employe thereof.

(2) The offices of justice of the peace, county judge, surveyor, sheriff, deputy sheriff, coroner, constable, jailer and clerk or deputy clerk of a court, shall be incompatible, the one (1) with any of the others. The office of county judge and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office.

(4) No person shall, at the same time, fill two (2) municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

(a) Member of the public service commission of Kentucky;

(b) Member of the *worker's*[workmen's] compensation board;

(c) Commissioner of the fiscal court in counties containing a city of the first class;

(d) County indexer;

(e) Member of the legislative body of cities of the first class;

(f) Mayor and member of the legislative body in cities of the second class; and

(g) Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky active militia shall be incompatible with any civil office in the commonwealth, either state, county, district or city.

Section 7. KRS 92.285 is amended to read as follows:

(1) The legislative body of each city which is authorized to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city, less all premiums returned to policyholders. A fire insurance company entering a city during a license year shall at the end thereof promptly pay to such city the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city upon a life insurance company may be based upon premiums received, and if so based shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city.

(4) Any license fee or tax imposed by such a city upon any insurance company other than those specified in subsections (2) and (3) shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders. Provided, however, That any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the *Worker's*[Workmen's] Compensation Act.

(5) The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city may collect a fee of five dollars (\$5.00) from any company whose fee or tax on the percentage of premium basis is less than five dollars (\$5.00).

Section 8. KRS 96.175 is amended to read as follows:

Any board operating under the provisions of KRS 96.171 to 96.188 shall have the legal power and capacity to perform any act not repugnant to law and shall have the express power and capacity to do any and all acts or things necessary or convenient for the carrying out of the purposes of KRS 96.171 to 96.188, including, but not by way of limitation, the following express powers:

(1) Acquire property, real and personal, tangible and intangible, necessary or incident to the proper conduct of its business.

(2) Operate, maintain, improve and extend the electric and water plant, and provide electric and water service to any user or consumer within and without the boundaries of any municipality, and charge and collect reasonable rates therefor.

(3) Fix and determine classifications, rates and charges for services; Provided, however, the rates and charges so fixed and determined at all times shall be sufficient to produce revenues sufficient to pay all operating expenses, interest, and bond requirements, sinking fund requirements, adequate depreciation reserves, taxes, or payments in lieu of taxes, and reserves for contemplated extensions and improvements.

(4) Construct, lease, operate and control any and all works, lines, buildings and other facilities across, along or under any street or public highway, and over any lands which are now or may be the property of the commonwealth or of any county or municipality within this commonwealth. The board shall, however, at its own expense, restore any such street or highway to its former condition and state as nearly as may be possible and shall not use the same in a manner as to impair its usefulness or to interfere with or obstruct the

maintenance thereof. Before exercising these powers the board shall obtain a permit or consent or approval in writing from the governing authority of the municipality, or the fiscal court, or the department of highways, having appropriate jurisdiction over any and all of such respective streets or public highways.

(5) Accept gifts, grants of property, real or personal, including money, from any person, municipality, or federal agency, and to accept voluntary and uncompensated services; Provided, however, That when engineering services are required by the board no engineer or firm with which he is associated who is engaged in whole or in part in the business of buying or selling any electric or water equipment, machinery, fixtures, materials, supplies, or the sale or purchase of bonds shall be eligible for employment or for any service whatsoever under the provisions of KRS 96.171 to 96.188.

(6) Contract debts and borrow money for the improvement and extension of any electric and water plant or for the refinancing of any existing bonded indebtedness on the property or any portion thereof, issue bonds therefor, provide for the rights of holders of the bonds and to secure the bonds as hereinafter provided, and pledge all or any of the net revenue derived from the electric and water plant to the payment of such debts or repayment of money borrowed.

(7) The title to any property, real or personal, which the board may acquire shall vest in the municipality for the use and benefit of the electric and water system. The board shall have the power to sell or otherwise dispose of any personal property used or useful in the operation of the electric and water system which may be or become obsolete or otherwise determined by the board not to be necessary in the operation of the electric and water system. Any bill of sale or other instrument of conveyance shall be executed by the chairman of the board and attested by the secretary of the board.

(8) Make contracts and execute instruments containing such covenants, terms and conditions as in the discretion of the board may be proper, necessary or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any governmental agency; make all other contracts and execute all other instruments as in the discretion of the board may be advisable in or for the furtherance of the operation, maintenance, improvement or extension of any electric and water plant and the furnishing of service; and carry out and perform the covenants, terms, and conditions of all such contracts or instruments, as well as all contracts and instruments in existence and effect at the time of the transfer of the property to the board as herein provided.

(9) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the operation, maintenance, improvement or extension of any electric and water plant and the furnishing of service.

(10) Do all acts and things necessary or convenient to carry out the powers expressly given in KRS 96.171 to 96.188, except sell, convey or mortgage the real property.

(11) Make any contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, contracts for either the purchase or sale or both the purchase and sale of electric energy or power; and, in connection with any such contract with a governmental agency, the board may stipulate and agree to such covenants, terms, and conditions as it deems appropriate, including, but without limitation, covenants, terms, and conditions with respect to the resale rate, financial and accounting methods and the manner of disposing of the revenues or any part thereof derived from the operation of the plant as herein provided.

(12) Acquire by purchase or the exercise of eminent domain all lands, easements, rights of way, either upon or under or above the ground, reasonably necessary or desirable in connection with the operation, maintenance or extension of an electric and water plant.

(13) The board shall have the power to accept the provisions of and conduct its operations under the provisions of the Kentucky *Worker's*[*Workmen's*] Compensation Act.

(14) The board shall have the power to establish, create, provide and maintain a pension plan for its employees, and to pay out of operating revenues, as an operating expense, such portion of the cost of the creation and maintenance of such pension plan as may be properly payable by the board.

Section 9. KRS 96A.180 is amended to read as follows:

An authority shall provide for insurance of its properties, and for *worker's*[*workmen's*] compensation, and for public liability or any other risk or hazard arising from its activities, and may provide for the insuring of its officers or employees against any such risk or hazard, and the expense of obtaining such insurance, and of paying the premiums therefor from time to time, shall be borne by the authority and chargeable as an operating expense of the authority. In the event it shall prove to be impossible to obtain any such insurance coverage from reliable and reputable insurance carriers at reasonable rates, the board of an authority may provide for self insurance and may establish for that purpose such reserves as may be within its ability to pay.

Section 10. KRS 96A.200 is amended to read as follows:

If an authority acquires an existing transit system, the authority shall assume and observe all existing labor contracts and pension obligations. All employees of such system who are necessary for the operation thereof by the authority shall be transferred to and appointed as employees of the authority. Such employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the

records or labor agreements from the acquired transit system. The authority shall assume the obligations of any transit system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The authority and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired transportation system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the authority and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the authority shall by reason of such transfer be placed in any worse position with respect to *worker's*[workmen's] compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits than he enjoyed as an employee of such acquired transportation system.

Section 11. KRS 152.105 is amended to read as follows:

(1) The general assembly of the commonwealth of Kentucky indorses the action of the congress of the United States in instituting a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefor, in enacting KRS 152.105 to 152.190, it is the intention of the general assembly to provide for:

(a) Active participation in the program thus instituted; and

(b) The exercise of legislative and regulatory powers of the commonwealth so as to aid and assist for the common good, and, within the limits of proper federal jurisdiction, the enforcement of the provisions of the Atomic Energy Act of 1954 and amendments and regulations issued thereunder.

(2) The general assembly recognizes that the development, utilization and production of atomic energy may result in new conditions calling for changes in the laws of the commonwealth and in regulations issued thereunder with respect to health, safety, and working conditions; *worker's*[workmen's] compensation; transportation and public utilities; life, health, accident, fire and casualty insurance; the conservation of natural resources, including wildlife; and the protection of streams, rivers and air space from pollution; and therefore declares the policy of the commonwealth to be:

(a) To adapt its laws and regulations to meet the new and changing conditions in ways that will encourage and support a prudent program of information and research relative to nuclear development in the fields of education, science, agriculture, industry, transportation, medicine, public health, and all other fields of endeavor which may aid in or be benefited by nuclear development and nuclear science and engineering, while at the same time protecting the public interests;

(b) To assure continuing studies of the need for changes in the relevant laws and regulations by the respective departments and agencies of the commonwealth which are responsible for their administration; and

(c) To assure coordination of the studies thus undertaken, particularly with other atomic development activities within the commonwealth and with the development and proper regulatory activities of other states and of the government of the United States.

Section 12. KRS 152.120 is amended to read as follows:

(1) Each of the following departments and agencies of the state government is directed to initiate and to pursue continuing studies as to the need for changes in the laws and regulations administered by it that would arise from the presence within the commonwealth of special nuclear materials and by-product material and from the operation herein of production or utilization facilities, and on the basis of such studies, and in accordance with KRS 152.105 to 152.190 are authorized to adopt such reasonable rules and regulations relative to its functions as are necessary to meet the needs of the commonwealth. These departments and agencies shall also conduct studies in such other matters and activities relating to nuclear energy, as the governor may direct and for the purposes specified by him; and shall bring to the attention of the agencies hereinafter designated for that purpose the findings and appropriate steps indicated by such studies:

(a) State department of health, particularly as to hazards to public health and safety, including the protection of air space and all ground and surface waters, in cooperation with other pollution control agencies;

(b) The department of labor and the *worker's*[workmen's] compensation board, particularly as to hazardous working conditions and to the time and character of proof of claims of injuries and disease and the extent of the compensation liable therefor;

(c) The department of motor transportation, particularly as to the transportation of special nuclear materials and by-product material on highways of the commonwealth;

(d) The railroad commission, particularly as to the transportation of special nuclear materials and by-product material by common carriers in intrastate commerce on the railroads of the commonwealth;

(e) The department of aeronautics, particularly as to the transportation of special nuclear materials and by-product material by air;

(f) The public service commission, particularly as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production or utilization facilities for industrial or commercial use;

(g) The department of insurance, particularly as to the insurance of persons and property from hazards to life and property resulting from atomic energy development;

(h) Department of natural resources, particularly as to the hazards, if any, to the natural resources of the commonwealth;

(i) Department of fish and wildlife resources, particularly as to the protection of wildlife within the commonwealth;

(j) Department of mines and minerals, particularly as to the possibility of disposal of radioactive wastes in subterranean areas;

(k) Such other departments and agencies, including additional departments and agencies of political subdivisions of the commonwealth, as the governor may direct and for the purposes specified by him.

Section 13. KRS 187.490 is amended to read as follows:

(1) A "motor vehicle liability policy" as that term is used in KRS 187.290 to 187.620 means an owner's or an operator's policy of liability insurance, certified as provided in KRS 187.470 or 187.480 as proof of financial responsibility, and issued, except as otherwise provided in KRS 187.480, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(2) The owner's policy of liability insurance:

(a) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

(b) Shall insure the person named therein and any other person, as insured, using any such motor vehicle with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicle within the United States or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows: Ten thousand dollars (\$10,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, twenty thousand dollars (\$20,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and five thousand dollars (\$5,000) because of injury to or destruction of property of others in any one (1) accident.

(3) The operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(4) The motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy; the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be indorsed that insurance is provided thereunder in accordance with the coverage defined in KRS 187.290 to 187.620 as respects bodily injury and death or property damage, or both, and is subject to all the provisions of KRS 187.290 to 187.620.

(5) The motor vehicle liability policy shall not insure any liability under any *worker's*[workmen's] compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of the motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(6) Every motor vehicle liability policy is subject to the following provisions which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by KRS 187.290 to 187.620 shall become absolute whenever injury or damage covered by the motor vehicle liability policy occurs; the policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of the policy shall defeat or void the policy.

(b) The satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier may settle any claim covered by the policy, and if the settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph (b) of subsection (2) of this section.

(d) The policy, the written application therefor, if any, and any rider or indorsement which does not conflict with the provisions of KRS 187.290 to 187.620 shall constitute the entire contract between the parties.

(7) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage is not subject to the provisions of KRS 187.290 to 187.620. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(8) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of KRS 187.290 to 187.620.

(9) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(10) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(11) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

Section 14. KRS 199.420 is amended to read as follows:

(1) The commissioner shall have the power and authority to adopt, amend or rescind such rules and regulations as he deems necessary or suitable for the proper administration of the functions of the department, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. Such rules and regulations shall become effective in the manner and at the time prescribed by the commissioner.

(2) In the administration of KRS 199.410 to 199.670 the commissioner shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The commissioner is authorized, subject to the provisions of KRS chapters 12, 18, 42, 45 and 64, to appoint, fix the compensation and prescribe the duties and powers of such officers and employees as may be necessary in the performance of his duties under KRS 199.410 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The commissioner shall not employ or pay any person who is an officer or committee member of any political party organization. The commissioner may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of KRS 199.410 to 199.670.

(4) The commissioner shall have the power and authority to elect coverage for the workers in the department, under the provisions of KRS chapter 341, and may elect coverage for such workers under the *worker's*[workmen's] compensation law of this state. In the event such coverage is elected the payment of contributions under KRS chapter 341 and premiums under the *worker's*[workmen's] compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the commissioner and his staff shall be considered a proper cost of administration and charged to the funds allocated to the department of child welfare.

Section 15. KRS 200.430 is amended to read as follows:

(1) The commission shall be a corporation with the usual corporate powers, and may adopt rules and regulations necessary to carry out the provisions of KRS 200.400 to 200.490.

(2) The commission shall elect a president, vice-president, secretary and treasurer. The office of secretary and treasurer may be held by the same person.

(3) The commission shall employ a medical director and such professional and other personnel as may be required to administer the program of the commission, in accordance with state and federal laws and regulations and under such administrative policies as are established by the commission. The medical director and all other employees of the commission shall be subject to and governed by a merit system of rules and regulations approved by the United States secretary of health, education and welfare. The commission may elect coverage under the *worker's*[workmen's] compensation laws for all employees of the commission.

Section 16. KRS 212.245 is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment and personnel of the state department of health or of the United States public health service upon such terms of payment or reimbursement as are agreed on by the department and the state department of health or the United States public health service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employees and compensate and defray the reasonable expenses of said employees while they are pursuing public health training courses approved by the state department of health;

(4) Establish or contribute to a retirement system or fund for employees of the department, including any retirement system for state employees;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the state board of health or the county board of health. Notwithstanding the provisions of this section and KRS 212.210, any health officer may institute

and maintain mandatory or prohibitory injunction proceedings in the appropriate circuit courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the state board of health and the county board of health and the orders described in this section or in KRS 212.210;

(7) Through its health officers, representatives and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the commonwealth. Service of process may be made by registered mail or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies and organizations in matters relating to public health;

(10) Elect coverage under the state's *worker's*[workmen's] compensation laws with the approval of the state department of health;

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 17. KRS 227.220 is amended to read as follows:

(1) The commissioner shall enforce or aid in the enforcement of all laws, regulations and ordinances of the state and its political subdivisions relating to fire loss as herein defined:

(a) The prevention or reduction of loss by fire or by other hazard or risk insured by property or casualty insurance companies doing business in this state, except as to disability insurance and *worker's* [workmen's] compensation, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons or property;

(b) The manufacture, transportation, storage, sale or use of combustibles, explosives and hazardous materials or equipment;

(c) The design, construction, and maintenance of property which has a direct bearing on safety to life and property;

(d) The construction, installation, maintenance or equipment of fire alarm systems, fire protection and extinguishing equipment, and fire escapes and other means of access to or exit from property;

(e) Arson and related offenses.

(2) The commissioner is authorized to:

(a) Investigate the cause, origin, and circumstances of fires and explosions for the purpose of detecting and suppressing arson and related offenses, or for the purpose of minimizing or preventing fire loss;

(b) Supervise and make periodic inspections of all property within the state, and assist cities having fire departments in making like periodic inspections of all property in such cities, except occupied private dwellings;

(c) Make and enforce reasonable rules and orders for the prevention of fire loss, and for the adoption, approval, and installation of such safety equipment as will minimize fire loss;

(d) Provide technical and engineering advice and assistance to state and local governmental agencies in relation to fire prevention or fire protection;

(e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;

(f) Conduct fire prevention and educational campaigns;

(g) Conduct examinations into the cause, origin, or circumstances of fire losses;

(h) Hold such hearings as he may deem necessary or desirable as to any matter within the scope of KRS 227.200 to 227.400.

Section 18. KRS 304.5-070 is amended to read as follows:

(1) "Casualty insurance" includes:

(a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the name insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) Liability insurance. Insurance against legal liability for the death, injury or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of

persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(c) *Worker's*[*Workmen's*] compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

(d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

(e) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

(g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and the inspection of and issuance of certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(i) Credit. Insurance, other than mortgage guaranty insurance, against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and the inspection of and issuance of certificates of inspection upon, elevators.

(l) Congenital defects. Insurance against congenital defects in human beings.

(m) Livestock. Insurance against loss of or damage to livestock from any cause.

(n) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

(o) Failure of certain institutions to record documents. Insurance indemnifying against loss from failure or omission to record as public records, liens of any kind upon personal property, given, held, delivered, or possessed as security or collateral for loans, advances, debts, or obligations of all kinds.

(p) Automobile guaranty. Insurance of the mechanical condition or, freedom from defective or worn parts of motor vehicles, other than as provided by manufacturer's warranty.

(q) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subtitle, if such insurance is not disapproved by the commissioner as being contrary to law or public policy.

(2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraph (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

Section 19. KRS 304.5-120 is amended to read as follows:

(1) No insurer shall retain any risk on any one (1) subject of insurance, whether located or to be performed in this state or elsewhere, in an amount exceeding 10 per cent of its surplus to policyholders.

(2) A "subject" of insurance for the purposes of this section, as to insurance against fire and hazards other than windstorm, earthquake and other catastrophic hazards, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or the same occurrence of any other hazard insured against.

(3) Re-insurance ceded, as authorized by KRS 304.5-140, shall be deducted in determining risk retained. As to surety risks, deduction shall be made of the amount assumed by any authorized co-surety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

(4) As to alien insurers, this section shall relate only to risks and surplus to policyholders of the insurer's United States branch.

(5) "Surplus to policyholders" for the purposes of this section, in addition to the insurer's capital and surplus, shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the commissioner, or by the last report of examination of the insurer, whichever is the more recent at time of assumption of risk.

(6) This section shall not apply to life or health insurance, annuities, title insurance, insurance of wet marine and transportation risks, *worker's*[workmen's] compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

(7) Limits of risk as to newly formed domestic mutual insurers shall be as provided in KRS 304.24-100.

(8) Limits of risk as to mortgage guaranty insurers shall be as provided in KRS 304.23-030.

Section 20. KRS 304.6-100 is amended to read as follows:

(1) As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable, and to provide for the expenses of adjustment or settlement of losses and claims. The reserves shall be computed in accordance with regulations from time to time made by the commissioner, after due notice and hearing, upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

(2) Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with such regulations, are inadequate, the commissioner may require the insurer to maintain additional reserves.

(3) The minimum reserve requirements prescribed by the commissioner for unpaid losses and loss expenses incurred during each of the most recent three (3) years for coverages included in the lines of business described in the insurer's annual statement as *worker's*[workmen's] compensation, liability other than auto (B.I.), and auto liability (B.I.) shall not be less than the following: for workmen's compensation, 65 per cent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year; for liability other than auto (B.I.) and auto liability (B.I.), 60 per cent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year.

(4) The commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Section 21. KRS 304.10-020 is amended to read as follows:

This surplus lines law shall not apply to re-insurance, or to the following insurances when so placed by licensed agents or surplus lines brokers of this state:

(1) Ocean marine and foreign trade insurances.

(2) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(4) Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of such aircraft or against liability other than *worker's*[workmen's] compensation and employer's liability arising out of the ownership, maintenance or use of such aircraft.

Section 22. KRS 304.13-020 is amended to read as follows:

(1) The provisions of this subtitle apply to property, casualty, mortgage guaranty and surety insurance (as defined in this code) of subjects of insurance resident, located or to be performed in this state, except as provided in subsection (2) of this section.

(2) This subtitle does not apply to:

(a) Re-insurance, except joint re-insurance as provided in KRS 304.13-250.

(b) Health insurance.

(c) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance contracts.

(d) Insurance of hulls of aircraft, including their accessories and equipment, or against liability, other than *worker's*[workmen's] compensation and employer's liability, arising out of the ownership, maintenance

or use of aircraft.

(e) Life insurance.

(f) Title insurance.

(g) Assessment or cooperative companies operating under the provisions of KRS chapter 299.

(3) This subtitle shall apply to all insurers which, under any provisions of the laws of this state, write any of the kinds of insurance to which this subtitle applies, unless specifically exempted in this subtitle.

(1) The provisions of this subtitle apply to property, casualty, mortgage guaranty and surety insurance (as defined in this code) of subjects of insurance resident, located or to be performed in this state, except as provided in subsection (2) of this section.

(2) This subtitle does not apply to:

(a) Re-insurance, except joint re-insurance as provided in KRS 304.13-250.

(b) Health insurance.

(c) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance contracts.

(d) Insurance of hulls of aircraft, including their accessories and equipment, or against liability, other than *worker's*[workmen's] compensation and employer's liability, arising out of the ownership, maintenance or use of aircraft.

(e) Life insurance.

(f) Title insurance.

(g) Assessment or cooperative companies operating under the provisions of KRS chapter 299.

(3) This subtitle shall apply to all insurers which, under any provisions of the laws of this state, write any of the kinds of insurance to which this subtitle applies, unless specifically exempted in this subtitle.

Section 23. KRS 304.17-020 is amended to read as follows:

Nothing in this subtitle shall apply to or affect:

(1) Any policy of liability or *worker's*[workmen's] compensation insurance with or without supplementary expense coverage therein.

(2) Any group or blanket policy.

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means, or

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(4) Re-insurance.

(5) Any contract made or issued prior to June 18, 1970, together with any extensions, renewals, re-instatements or modifications thereof or amendments thereto, whenever made.

Section 24. KRS 304.17-220 is amended to read as follows:

(1) There may be a provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the like amount of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage."

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in subsection (1) of KRS 304.17-230, there shall be added to the caption of the foregoing provision the phrase "... Expense Incurred Benefits."

(3) The insurer may, at its option, include in the provision provided in subsection (1) of this section, a definition of "other valid coverage" approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying such

policy provision no third-party liability coverage amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any *worker's*[workmen's] compensation or employer's liability statute, whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying such policy provision no third-party liability coverage shall be included as "other valid coverage."

Section 25. KRS 304.17-230 is amended to read as follows:

(1) There may be a provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."

(2) If the policy provision set out in subsection (1) of this section is included in a policy which also contains the policy provision set out in subsection (1) of KRS 304.17-220, there shall be added to the caption of the foregoing provisions the phrase "... Other Benefits."

(3) The insurer may, at its option, include in the provision set out in subsection (1) of this section, a definition of "other valid coverage" approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance laws or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any *worker's*[workmen's] compensation or employer's liability statute, whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying such policy provision no third-party liability coverage shall be included as "other valid coverage."

Section 26. KRS 304.17-240 is amended to read as follows:

(1) There may be a provision as follows:

"After the loss-of-time benefit of this policy has been payable for ninety (90) days, such benefit will be adjusted, as provided below, if the total amount of unadjusted loss-of-time benefits provided in all valid loss-of-time coverage upon the insured should exceed --% of the insured's earned income; Provided, however, That if the information contained in the application discloses that the total amount of loss-of-time benefits under this policy and under all other valid loss-of-time coverage expected to be effective upon the insured in accordance with the application for this policy exceeded --% of the insured's earned income at the time of such application, such higher percentage will be used in the place of --%. Such adjusted loss-of-time benefit under this policy for any month shall be only such proportion of the loss-of-time benefit otherwise payable under this policy as:

(a) The product of the insured's earned income and --% (or, if higher, the alternative percentage described at the end of the first sentence of this provision) bears to

(b) The total amount of loss-of-time benefits payable for such month under this policy and all other valid loss-of-time coverage on the insured (without giving effect of the overinsurance provision in this or any other coverage) less in both paragraphs (a) and (b) of this subsection any amount of loss-of-time benefits payable under other valid loss-of-time coverage which does not contain an 'overinsurance provision.' In making such computation, all benefits and earnings shall be converted to a consistent (insert 'weekly' if the loss-of-time benefit of this policy is payable weekly, 'monthly' if such benefit is payable monthly, etc.) basis. If the numerator of the foregoing ratio is zero or is negative, no benefit shall be payable under this policy. In no event shall this provision

1. Operate to reduce the total combined amount of loss-of-time benefits for such month payable under this policy and all other valid loss-of-time coverage below the lesser of \$300 and the total combined amount of loss-of-time benefits determined without giving effect to any 'overinsurance provision' nor

2. Operate to increase the amount of benefits payable under this policy above the amount which would have been paid in the absence of this provision, nor

3. Take into account or operate to reduce any benefit other than the loss-of-time benefit.

(c) For purposes of this provision:

1. 'Earned income,' except where otherwise specified, means the greater of the monthly earnings of the insured at the time disability commences and his average monthly earnings for a period of two (2) years immediately preceding the commencement of such disability, and shall not include any investment income or any other income not derived from the insured's vocational activities.

2. 'Overinsurance provision' shall include this provision and any other provision with respect to any loss-of-time coverage which may have the effect of reducing an insurer's liability if the total amount of loss-of-time benefits under all coverage exceeds a stated relationship to the insured's earnings."

(2) The foregoing provision may be included only in a policy which provides a loss-of-time benefit which may be payable for at least fifty-two (52) weeks, which is issued on the basis of selective underwriting of each individual application, and for which the application includes a question designed to elicit information necessary either to determine the ratio of the total loss-of-time benefits of the insured to the insured's earned income or to determine that such ratio does not exceed the percentage of earnings, not less than 60 per cent, selected by the insurer and inserted in lieu of the blank factor above. The insurer may require, as part of the proof of claim, the information necessary to administer this provision. If the application indicates that other loss-of-time coverage is to be discontinued, the amount of such other coverage shall be excluded in computing the alternative percentage in the first sentence of the overinsurance provision. The policy shall include a definition of "valid loss-of-time coverage," approved as to form by the commissioner, which definition may include coverage provided by governmental agencies and by organizations subject to regulations by insurance law and by insurance authorities of this or any other state of the United States or any other country or subdivision thereof, coverage provided for such insured pursuant to any disability benefits statute or any worker's[workmen's] compensation or employer's liability statute, benefits provided by labor-management trusted plans or union welfare plans or by employer or employee benefit organizations, or by salary continuance or pension programs, and any other coverage the inclusion of which may be approved by the commissioner.

(3) If by application of any of the foregoing provisions the insurer effects a material reduction of benefits otherwise payable under the policy, the insurer shall refund to the insured any premium unearned on the policy by reason of such reduction of coverage during the policy year current and that next preceding at the time the loss commenced, subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be so refunded amounts to \$5.00 or such larger sum as the insurer may so specify.

Section 27. KRS 304.24-100 is amended to read as follows:

(1) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (2) of this section.

(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by other insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, or, in lieu of such applications, premiums, and surplus, may deposit and thereafter maintain surplus, all in accordance with that part of the following schedule which applies to the one kind of insurance the insurer proposes to transact:

(a)	(b)	(c)	(d)	(e)
Kind of Insurance	Min. No. of Apps. Accepted	Min. No. Subjects Covered	Minimum Premium Collected	Min. Amt. Ins. ea. Subject
Life (i)	500	500	Annual	\$1,000
Disability (ii)	500	500	Quarterly	\$ 15
Life & Health	500	500	Quarterly	(weekly indem.)
Property (iii)	100	250	Annual	\$1,000
Casualty (iv)	250	500	Annual	\$1,000
excluding surety and worker's [workmen's] compensation				
Casualty with worker's [workmen's] compensation	250	1,500	Quarterly	\$1,000

(a)	(f)	(g)	(h)
Kind of Insurance	Max. Amt. Ins. ea. Subject (v)	Deposit of Min. Sur- plus Funds (vi)	Deposit of Surplus in Lieu (vi)
Life (i)	\$2,500	\$50,000	\$150,000
Disability (ii)	\$ 30	\$50,000	\$150,000
Life & Health	(weekly indem.)	\$50,000	\$150,000
Property (iii)	\$3,000	\$50,000	\$200,000
Casualty (iv)	\$10,000	\$100,000	\$200,000
excluding surety and worker's [workmen's] compensation			
Casualty with worker's [workmen's] compensation	\$10,000	\$150,000	\$250,000

Expendable Surplus: In addition to surplus deposited and thereafter to be maintained as shown in columns (g) or (h) above, the insurer when first authorized must have on hand surplus funds, which it can thereafter expend in the conduct of its business, in amount not less than \$50,000 or 50 per cent of the deposited surplus required of it under the above schedule, whichever is the larger amount.

The following provisions are respectively applicable to the foregoing schedule and provisions as indicated by like Roman numerals appearing in such schedule:

- (i) No group insurance or term policies for terms of less than ten (10) years shall be included.
- (ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed \$2,500.
- (iii) Only insurance of the owner's interest in real property may be included.
- (iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.
- (v) The maximums provided for in this column (f) are net of applicable re-insurance.
- (vi) The deposit of surplus in the amount specified in columns (g) and (h) must thereafter be maintained unimpaired. The deposit is subject to the provisions of subtitle 8.

Section 28. KRS 304.33-250 is amended to read as follows:

(1) Notice required. (a) General requirements. The liquidator shall give notice of the liquidation order as soon as possible by first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is licensed to do business, by first-class mail and by telephone to the department of labor of this state if the insurer is or has been an insurer of *worker's*[workmen's] compensation, by first-class mail within this state and by airmail outside this state to all insurance agents having a duty under KRS 304.33-260, and by first-class mail within this state and by airmail outside this state at the last known address to all persons known or reasonably expected to have claims against the insurer, including all policyholders. He also shall publish a notice, under KRS chapter 424, in a newspaper of general circulation in the county in which the liquidation is pending and in Franklin County, the last publication to be not less than three (3) months before the earliest deadline specified in the notice under subsection (2) of this section.

(b) Special requirements. Notice to agents shall inform them of their duties under KRS 304.33-260 and inform them what information they must communicate to insureds. Notice to policyholders shall include notice of impairment and termination of coverage under KRS 304.33-210. When it is applicable, notice to policyholders shall include

- 1. Notice of withdrawal of the insurer from the defense of any case in which the insured is interested.
- 2. Notice of the right to file a claim under subsection (2) of KRS 304.33-390.

(c) Reports and further notice. Within fifteen (15) days of the date of entry of the order, the liquidator shall report to the court what notice has been given. The court may order such additional notice as it deems appropriate.

(2) Notice respecting claims filing. Notice to potential claimants under subsection (1) of this section shall require claimants to file with the court their claims together with proper proofs thereof under KRS 304.33-370, on or before a date the liquidator specifies in the notice, which shall be not less than six (6) months nor more than one (1) year after entry of the order, except that the liquidator need not require persons claiming unearned premium and persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. The liquidator may specify different dates for the filing of different kinds of claims.

(3) Notice conclusive. If notice is given in accordance with this section, the distribution of the assets of the insurer under this subtitle shall be conclusive with respect to all claimants, whether or not they received notice.

Section 29. KRS 304.36-080 is amended to read as follows:

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation, if he does so within thirty days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of \$200 and is less than \$50,000, except that the association shall pay the full amount of any covered claim arising out of a *worker's*[workmen's] compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the face amount of the policy from which the claim arises.

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

(c) Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and the cost of examinations under KRS 304.36-130 and other expenses authorized by this subtitle. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment. Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year an amount greater than one percent of that member insurer's net direct written premiums for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the association, does not provide in any one year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order which it may deem reasonable including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided, however, that during the period of deferment no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital and surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments. Each member insurer serving as a servicing facility may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer.

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims.

(e) Notify such persons as the commissioner directs under KRS 304.36-100 (2) (a).

(f) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this subtitle.

(2) The association may:

(a) Appear in, defend, and appeal any action on a claim brought against the association.

(b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation.

(d) Sue or be sued.

(e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this subtitle.

(f) Perform such other acts as are necessary or proper to effectuate the purpose of this subtitle.

(g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

Section 30. KRS 304.36-120 is amended to read as follows:

(1) Any person having a claim against his insurer under any provision in his insurance policy which is also a covered claim shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this subtitle shall be reduced by the amount of such recovery under the claimant's insurance policy.

(2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a *worker's*[workmen's] compensation claim, from the association of the residence of the claimant. Any recovery under this subtitle shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

(3) The guaranty association shall receive the benefit of any reinsurance contract or treaties entered into by the insolvent insurer which cover any of the liabilities incurred by the insolvent insurer with respect to covered claims.

Section 31. KRS 336.040 is amended to read as follows:

(1) The department shall exercise all administrative functions of the state concerned with employer-employee relationships, including:

(a) Safety of workers; and

(b) The *worker's*[workmen's] compensation board.

(2) The department shall:

(a) Promote friendly and cooperative relations between employers and employees;

(b) Accumulate and publish industrial statistics and aid and encourage the development of new industries and the expansion of existing industries in Kentucky;

(c) Encourage, promote and develop fair practices both by employers and employees; discourage and eliminate as far as practicable all unfair practices by either; and enforce laws relating to unfair practices;

(d) Foster, promote and develop the welfare of both wage earner and industries in Kentucky;

(e) Improve working and living conditions of employees and advance their opportunities for profitable employment; and

(f) Inquire into the causes of accidental injuries and occupational diseases arising out of and in the course of employment, and advance measures for the prevention of accidents and occupational diseases and for the improvement of sanitary conditions in places of employment.

Section 32. KRS 338.021 is amended to read as follows:

(1) This chapter applies to all employers, employees, and places of employment throughout the Commonwealth except the following:

(a) Employees of the United States government.

(b) Employers, employees and places of employment over which federal agencies other than the U.S. Department of Labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(2) Nothing in this chapter shall be construed to supersede or in any manner affect any *worker's*[workmen's] compensation law or to enlarge or diminish or affect in any manner the common law or statutory rights, duties, or liabilities of employers or employees, under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of employment.

Section 33. KRS 339.370 is amended to read as follows:

An employment certificate or certificate of age duly issued shall be conclusive evidence of the age of the minor for whom issued in any proceeding involving the employment of the minor under the child labor or *worker's*[workmen's] compensation law or any other labor law of the state, as to any act occurring subsequent to its issuance.

Section 34. KRS 341.135 is amended to read as follows:

(1) The commissioner of finance may elect coverage for the workers of the department or any division or administrative unit thereof under subsection (3) of KRS 341.250 and the *worker's*[workmen's] compensation law of this state. In the event such coverage is elected the payment of contribution under this chapter and premiums under the *worker's*[workmen's] compensation law shall be deemed a proper cost of administration.

(2) If and when the congress of the United States amends the federal social security act so as to extend its provisions to include state employees, the commissioner may take such actions as are necessary to extend the benefits of such act to the employees of the department or any division or administrative unit thereof. In

the event of such extension the contributions required of the department as the employer shall be deemed to be a proper cost of administration and the contributions required of the employees shall be withheld by the department.

Section 35. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall be subject to a penalty at the rate of one percent per month or fraction thereof, not to exceed sixty percent of the amount of such contributions, from and after such date until payment is received by the division, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section. These penalties shall be paid into the Unemployment Compensation Contingent Fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the *Worker's*[*Workmen's*] Compensation Law.

(3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 36. KRS 342.121 is amended to read as follows:

(1) If on a claim for compensation for disability resulting from a subsequent injury by accident or occupational disease any medical question shall be in controversy, or a determination thereof necessary to the proper apportionment of liability therefor, the board shall refer the case to a physician appointed by it for the purpose of investigating and reporting to the board on the medical questions involved. The physician shall make his report to the *Worker's*[*Workmen's*] Compensation Board in writing with respect to all medical questions at issue or necessary to the apportionment of disability between the subsequent injury and in the prior existing disability at the time of employment. The report shall show the date of prior disablement or latent, nondisabling disease, or condition, which, if in dispute, shall be deemed a medical question.

(2) The physician appointed as provided in subsection (1) of this section shall be allowed necessary traveling expenses and reasonable fees, to be fixed by the board to each physician for making such examination and report, plus a reasonable allowance for expenses incurred in making such examination. The board may also allow traveling expenses to the employee. Such fees and expenses so approved by the board shall be paid out of the Special Fund.

(3) The physician shall, as soon as practicable after he has completed his consideration of the case, but not later than fifteen days after the examination of the employee, report in writing his findings on every medical question in controversy. The physician shall also include in his report a statement indicating the physician or physicians, if any, who appeared before him, and what, if any medical reports and X-rays were considered by him.

(4) The board may consider the report of the physician along with the other evidence in the case in arriving at its decision or award, and any party in interest may take the deposition of the physician to be used as evidence in the case.

(5) The provisions of this section shall apply only to persons mentioned in KRS 342.120.

Section 37. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent of such total payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than fifty percent of the basic insurance premium computed by applying current manual rates for *worker's*[*workmen's*] compensation insurance to the payroll of every employer carrying his own risk and for this purpose each such employer shall annually furnish payroll data to the *Worker's*[*Workmen's*] Compensation Board. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a Special Fund tax at the rate of three fourths of one percent of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the board shall assess against the "adjusted cost" of every employer carrying his own risk a Special Fund Tax computed by taking

three-fourths of one percent of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths of one percent of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the State Treasury and shall be credited to the Special Fund for the board, which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose under the supervision of the Commissioner of Labor.

(4) Any sum remaining in the Special Fund at the end of any fiscal year shall be set up by the Department of Finance to the credit of such fund for the next ensuing fiscal year.

(5) If the Commissioner of Labor finds that the Special Fund tax levied pursuant to this section is insufficient to pay such claims awarded under the Special Fund provisions, then he may levy additional assessments against all insurance companies writing *worker's*[workmen's] compensation insurance in Kentucky, including every employer carrying his own risk. The amount of each insurance company's assessment shall be in the proportion that each company's annual *worker's*[workmen's] compensation premium writings in Kentucky bears to the total of all annual *worker's*[workmen's] compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the Department of Insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of all such own risk carriers. "Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) The fund heretofore designated as the Subsequent Claim Fund is abolished and there is substituted therefor the Special Fund as herein set out and all monies and properties owned by the Subsequent Claim Fund are transferred to the Special Fund.

Section 38. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the director as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky unemployment insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the director by the department of economic security in a manner prescribed by the *worker's*[workmen's] compensation board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar (\$1.00) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars (\$2.00) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made.

Section 39. KRS 342.215 is amended to read as follows:

The *Worker's*[Workmen's] Compensation Board shall consist of five members appointed by the Governor and shall be attached to the Department of Labor for administrative services.

(1) Of the members first appointed under this chapter one shall serve until January 1, 1974; one until January 1, 1975; one until January 1, 1976; and two until January 1, 1977. Thereafter, each term shall run for four years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies. The members of the board shall have the qualifications required of Circuit Judges. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it. Each member of the board shall be paid a salary in accord with the provisions of KRS 64.640.

(2) A decision concurred in by any three members shall constitute a decision of the board, unless there are two unfilled vacancies in which case a majority of the remaining members shall constitute a decision of the board.

(3) The terms of all members of the *Worker's*[*Workmen's*] Compensation Board who are in office prior to the effective date of this chapter shall automatically expire on January 1, 1973, any other statute to the contrary notwithstanding.

Section 40. KRS 342.240 is amended to read as follows:

The board shall maintain its main offices in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The board shall provide necessary supplies, books and periodicals and maps and shall provide itself with a seal for the authentication of its orders, awards or proceedings, on which shall be inserted the words "*Worker's* [Workmen's] Compensation Board, State of Kentucky, official seal." The board may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the board, all actions or proceedings against it or a member in his official capacity as such shall be brought in the courts of Franklin County.

Section 41. KRS 342.285 is amended to read as follows:

(1) An award or order of the board as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may within twenty days after the rendition of such final award or order of the board, by petition appeal to the circuit court that would have jurisdiction to try an action for damages for the injuries if this chapter did not exist, for the review of such order or award, the board and the adverse party being made respondents. The board shall be named respondent as the *Worker's*[*Workmen's*] Compensation Board, and service shall be had on the director.

(2) The petition shall state fully the grounds upon which a review is sought, and assign all errors relied on. Summons shall issue upon the petition directing the adverse party to file answer within fifteen days after service thereof and directing the board to send its entire original record, properly bound, to the clerk of the circuit court, after certifying that such record is its entire original record, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review.

(3) No new or additional evidence may be introduced in the circuit court except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling or award, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner. The court shall not substitute its judgment for that of the board as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The board acted without or in excess of its powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(4) The board and each party may appear in such review proceedings; the court shall enter judgment affirming, modifying or setting aside the order, decision or award, or in its discretion remanding the cause to the board for further proceedings in conformity with the direction of the court. The court may, before judgment and upon a sufficient showing of fact, remand the cause to the board.

(5) The appeal shall be advanced on the circuit court docket without motion or notice.

Section 42. KRS 342.290 is amended to read as follows:

(1) Where an amount sufficient under KRS 21.060 to authorize an appeal to the Court of Appeals is involved, the judgment of the circuit court shall be subject to appeal to the Court of Appeals. The scope of review by the Court of Appeals shall include all matters subject to review by the circuit court and also errors of law arising in the circuit court and upon appeal made reviewable by the Rules of Civil Procedure where not in conflict with this chapter.

(2) The procedure as to appeal to the Court of Appeals shall be the same as in civil actions, so far as it is applicable to and not in conflict with this chapter, except as follows:

(a) The appellant shall file with the clerk of the circuit court, together with proof or acknowledgment of service, a schedule which indicates the portions of the record to be incorporated into the transcript of the record to be used on appeal to the Court of Appeals. Should the appellee or his counsel desire additional portions of the record incorporated into the record to be filed in the Court of Appeals, he may file with the clerk of the circuit court his schedule also within ten (10) days thereafter (unless the time is extended by order of the circuit court or the Court of Appeals), indicating the additional portions of the record desired by him. Provided, however, That if the original record of the *worker's*[*workmen's*] compensation board is desired by either party on appeal to the Court of Appeals, it shall not be necessary for the clerk of the circuit court to copy said original record into the transcript, but the same shall be and become a part of the transcript and shall be forwarded to the clerk of the Court of Appeals as a part of the record upon appeal to said court. The

clerk shall not be entitled to any transcript fee for such original record.

(3) The clerk of the circuit court will transmit to the Court of Appeals as the transcript of the record only those portions of the record of the lower court as are designated by the parties as above.

(4) The appeal shall be advanced on the Court of Appeals docket without motion or notice.

Section 43. KRS 342.295 is amended to read as follows:

The circuit court or the Court of Appeals may make such rule or order as it may deem necessary for the safekeeping, transporting and return of such original records of the *worker's*[workmen's] compensation board to the said board when the judgment in the case becomes final, provided that a copy of the final judgment shall be returned with each record. When any appeal has become final the clerk of the Court of Appeals shall return such original record to the *worker's*[workmen's] compensation board, who shall safely keep the same. At all times thereafter such record shall remain a part of the record of the case in the Court of Appeals, though kept in the possession of the *worker's*[workmen's] compensation board.

Section 44. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contacted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer and the Special Fund.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the Special Fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the Special Fund, and any other interested party shall have the right as provided under KRS 342.021 to have the claimant examined by competent medical experts.

5. Within sixty days of the filing of the claim the employer, the Special Fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the *Worker's*[Workmen's] Compensation Board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the *Worker's*[Workmen's] Compensation Board within three years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him

that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the *Worker's*[*Workmen's*] Compensation Board within three years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the *Worker's*[*Workmen's*] Compensation Board within five years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease, a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the *Worker's*[*Workmen's*] Compensation Act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within 20 years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the *Worker's*[*Workmen's*] Compensation Act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for 10 years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which (a) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (c) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) if diagnosis had been made in the manner prescribed in paragraph (a) or (b), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this

chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13) (a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the Special Fund for all claims filed prior to January 1, 1973; and 75 percent shall be paid by the Special Fund and 25 percent by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the Special Fund, and the employer shall be liable for sixty percent of the compensation due and the Special Fund shall be liable for forty percent of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the Special Fund under this section, all of the compensation awarded shall be paid by the carrier or self-insured employer, and the carrier or self-insured employer shall be reimbursed for such payments from the Special Fund on a quarterly basis and under such regulations as the board may provide for such purpose.

(b) In all claims for compensation partially payable by the Special Fund the Commissioner of Labor, as custodian of said fund, shall be designated as co-defendant.

(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the Special Fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the Special Fund for the balance of the compensation payable. Nothing in this section shall prohibit the Commissioner of Labor, as custodian of the Special Fund, from entering into agreements to pay the compensation for which it is liable; provided, however, that where compensation is payable by both the employer and the Special Fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.

Section 45. KRS 342.340 is amended to read as follows:

(1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some corporation, association or organization authorized to transact the business of *worker's*[workmen's] compensation insurance in this state or shall furnish to the board satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case the board shall require the deposit of an acceptable security, indemnity or bond to secure to such an extent as the board directs the payment of compensation liabilities as they are incurred.

(2) Every employer accepting this chapter shall at the time of such acceptance file with the board in substantially the form prescribed by it, and semiannually thereafter, or as often as may be necessary, evidence of his compliance with the provisions of this section and all others relating thereto. Until these provisions are complied with the employer shall, from the date of his acceptance of the chapter, be liable to an employe either for compensation under this chapter or at law in the same manner as if the employer had refused to accept this chapter. Claim of compensation in such cases shall be considered a waiver of the right to proceed at law and the institution of an action at law shall be considered a waiver of all claim to compensation. Upon determination that any employer under this chapter has failed to comply with these provisions the board shall promptly notify interested government agencies of said failure and with particular reference to employers engaged in coal mining the board shall promptly report any such failures to the department of mines and minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 46. KRS 342.375 is amended to read as follows:

Every policy or contract of *worker's*[workmen's] compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his employes subject to this chapter, except as otherwise provided in KRS 342.345. However, if specifically authorized by the director, a separate insurance policy may be issued for a specified plant or work location if the liability of such employer under this chapter to all his other employes subject to this chapter is otherwise secured and provided that no employe transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

Section 47. KRS 342.390 is amended to read as follows:

(1) Election to operate under this chapter shall be effected by the employer by filing with the board the following notice:

“(Name of employer) elects to operate under the *worker's*[workmen’s] compensation law (KRS chapter 342). This election is effective as of the day of”

(2) In addition each employer shall at the time of filing notice furnish the following information:

(a) Its location and address of chief office;

(b) Average number of employes during preceding twelve (12) months;

(c) Kind of business being conducted; and

(d) Method of securing payments of compensation to employes that the employer elects to adopt.

(3) The notice shall be in writing signed by the employer, if an individual, by any partner, if a partnership, or by the chief officer or agent within this state, if a corporation.

(4) The notice or a copy thereof certified by an authorized representative of the board may be used as evidence in any action by or against the employer in any court of this state of the facts therein shown and that the employer has elected to operate under this chapter.

Section 48. KRS 342.555 is amended to read as follows:

The board of directors shall make and enforce reasonable regulations for the prevention of injuries on the premises of subscribers. For this purpose the inspectors of the association shall have free access to all such premises during regular working hours. Any subscriber or employe aggrieved by any such regulation may petition the *worker's*[workmen’s] compensation board for a review. It may affirm, amend or annul the regulation.

Section 49. KRS 342.620 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) “Injury” means any work related harmful change in the human organism, including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment. “Injury” when used generally, unless the context indicates otherwise, shall include an occupational disease.

(2) “Occupational disease” means a disease arising out of and in the course of the employment.

(a) A disease shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. The disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(b) “Injurious exposure” as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(3) “Death” means death resulting from an injury or occupational disease.

(4) “Carrier” means any insurer, or legal representative thereof, authorized to insure the liability of employers under this act and includes a self-insurer.

(5) “Self-insurer” is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employes covered by this chapter.

(6) “Department” means the Department of Labor.

(7) “Director” means the Director of the *Worker's*[Workmen’s] Compensation Board.

(8) “Board” means the *Worker's*[Workmen’s] Compensation Board.

(9) “Disability” means, except for purposes of KRS 342.730 (1) (c) relating to scheduled losses, a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employe is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employe’s general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement. A person who has lost wages by reason of his disability, and who is otherwise eligible for compensation, is entitled to compensation during the compensable period in an amount equal to the wages lost, so long as this amount does not exceed the applicable maximum compensation. For purposes of determining wages lost under this section, it is assumed that wage earning capacity prior to injury is the average weekly wage as calculated under KRS 342.140. An individual entitled to benefits under permanent-partial disability shall be entitled to either his lost wages due to his injury, or body functional disability benefits, whichever is greater.

(10) “Income benefits” means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(11) “Medical and related benefits” means payments made for medical, hospital, burial and other services as provided in this chapter other than income benefits.

(12) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(13) "Medical services" means medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(14) "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(15) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employee's federal and state tax returns.

(16) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with such farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(17) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(18) "United States" when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the Territories of the United States.

(19) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

Section 50. KRS 342.670 is amended to read as follows:

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this chapter, provided that at the time of such injury:

(a) His employment is principally localized in this state, or

(b) He is working under a contract or hire made in this state in employment not principally localized in any state, or

(c) He is working under a contract of hire made in this state in employment principally localized in another state whose *worker's*[workmen's] compensation law is not applicable to his employer, or

(d) He is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of benefits under the *worker's*[workmen's] compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, provided that claim under this chapter is filed within one year after such injury or death. If compensation is paid or awarded under this chapter:

(a) The medical and related benefits furnished or paid for by the employer under such other *worker's*[workmen's] compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(b) The total amount of all income benefits paid or awarded the employee under such other *worker's*[workmen's] compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter;

(c) The total amount of death benefits paid or awarded under such other *worker's*[workmen's] compensation law shall be credited against the total amount of death benefits due under this chapter;

(3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the board a certificate, issued by the commission or agency of such other state having jurisdiction over *worker's*[workmen's] compensation claims, certifying that such employer has secured the payment of compensation under the *worker's*[workmen's] compensation law of such other state and that with respect to said injury such employee is entitled to the benefits provided under such law, and that the benefits to which such employee or his dependents is entitled are at least as great as those to which he would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In such event:

(a) The filing of such certificate shall constitute an appointment by such employer or his carrier of the board as his agent for acceptance of the service of process in any proceeding brought by such employee or his

dependents to enforce his or their rights under this chapter on account of such injury;

(b) The board shall send to such employer or carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the board by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(c) 1. If such employer is a qualified self-insurer under the *worker's*[workmen's] compensation law of such other state, such employer shall, upon submission of evidence satisfactory to the board, of his ability to meet his liability to such employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

2. If such employer's liability under the *worker's*[workmen's] compensation law of such other state is insured, such employer's carrier, as to such employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; provided, however, that unless its contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of such benefits for which such insurer would have been liable under the *worker's*[workmen's] compensation law of such other state;

(d) If the total amount for which such employer's insurance is liable under (c) above is less than the total of the compensation benefits to which such employee is entitled under this chapter, the board may, if it deems it necessary, require the employer to file security, satisfactory to the board, to secure the payment of benefits due such employee or his dependents under this chapter, and

(e) Upon compliance with the preceding requirements of this subsection (3), such employer, as to such employee only, shall be deemed to have secured the payment of compensation under this chapter.

(4) As used in this section:

(a) "United States" includes only the states of the United States and the District of Columbia;

(b) "State" includes any state of the United States, the District of Columbia, or any Province of Canada;

(c) "Carrier" includes any insurance company licensed to write *worker's*[workmen's] compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a *worker's*[workmen's] compensation law;

(d) A person's employment is principally localized in this or another state when 1. his employer has a place of business in this or such other state and he regularly works at or from such place of business, or 2. if subparagraph 1. foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state;

(e) An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another such state, and, unless such other state refuses jurisdiction, such agreement shall be given effect under this chapter;

(f) *Worker's*[Workmen's] compensation law" includes "occupational disease law."

Section 51. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employee may either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both. If the injured employee elects to proceed at law by civil action against such other person to recover damages, he shall give due and timely notice to the employer of the filing of such action. If compensation is awarded under this chapter, the employer, his insurance carrier, the Special Fund, and the Uninsured Employer's Fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employee from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employee, less the employee's legal fees and expense.

(2) A principal contractor, intermediate or subcontractor shall be liable for compensation to any employee injured while in the employ of any one of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate or subcontractor who pays such compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall such claim be barred by limitations, provided such claim is filed against the principal or intermediate contractor within one year after a final unappealed order has been rendered by the *Worker's*[Workmen's] Compensation Board determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employee

against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

Section 52. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two years' indemnity benefits in one lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one child, and 15 percent for each additional child, divided among such children share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen, or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of *worker's* [workmen's] compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including *worker's* [workmen's] compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the *worker's* [workmen's] compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b) and (d) of

subsection (1) shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

Section 53. KRS 405.010 is amended to read as follows:

The father and mother of a child under the age of eighteen are equally entitled to its services and earnings. If one of the parents is dead, or has abandoned the child, or been deprived of its custody by court decree, the other is entitled to its services and earnings. The parents jointly may maintain an action for loss of the services or earnings of their child under the age of eighteen when the loss is occasioned by an injury wrongfully or negligently inflicted upon the child. But if either the father or mother is dead, or has abandoned the child, or has been deprived of its custody by court decree, or refuses to sue, the other may sue alone. This section shall not affect the existing law relating to *worker's*[workmen's] compensation and industrial accidents.

HB 514, AN ACT relating to apprenticeship and training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 343.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

- (1) "Apprentice" means a person at least sixteen (16) years of age who has entered into an apprenticeship agreement with an employer or an association of employers or an organization of employees;
- (2) "Apprenticeship or on the job training agreement" means a voluntary written agreement entered into by the apprentice or trainee, or through his parent or guardian with an employer, *or an apprenticeship and training committee acting as agent for an employer, which agreement contains the terms and conditions of the employment and training of the apprentice or trainee to enable the apprentice or trainee to learn the trade, craft or business of the employer;*
- (3) "Commissioner" means commissioner of labor *or any authorized person to act in his behalf, having jurisdiction over laws or regulations governing wages and hours of employees working in this state;*
- (4) "Council" means apprenticeship and training council; [and]
- (5) "Supervisor" means supervisor of apprenticeship *and training*;[.]
- (6) "Trainee" means a worker receiving on the job training other than an apprentice;
- (7) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including such matters as the requirement for a written apprenticeship agreement;
- (8) "On the job training program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of a trainee, including such matters as the requirement for a written on the job training agreement other than an apprenticeship program;
- (9) "Sponsor" means any person, association, committee, or organization in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer;
- (10) "Employer" means any person or organization employing an apprentice or trainee whether or not such person or organization is a party to an apprenticeship or on the job training agreement with the apprentice or trainee;
- (11) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to his trade.

Section 2. KRS Chapter 343.020 is amended to read as follows:

The governor shall appoint an apprenticeship and training council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of labor and the state official designated by the state board of education as being in charge of trade and industrial education shall be ex officio members of the council. The chairman shall be elected by vote of the apprenticeship and training council. *The regular members of the council shall each have one vote. In the event of a tie vote among the regular members, the commissioner of labor shall have the right to cast the tie-breaking vote.* Each member

of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. *The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.*

Section 3. KRS Chapter 343.030 is amended to read as follows:

The commissioner, with the approval of the governor, may appoint a supervisor of apprenticeship *and training*. This appointment shall be subject to the confirmation of the council by a majority vote. *He may also appoint such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this chapter.*

Section 4. KRS Chapter 343.040 is amended to read as follows:

The supervisor, under the direction of the commissioner and with the advice and guidance of the council, may administer this chapter in cooperation with the apprenticeship *and training* council; set up conditions and training standards for apprenticeship *or on the job training programs and agreements*; act as secretary to the council; approve, if in his opinion approval is to the best interest of both parties, any apprenticeship *or on the job training program and agreement* submitted to him by the parties thereto, that meets the standards established under this chapter; keep a record of apprenticeship *and on the job training programs and agreements* and their disposition; issue certificates of completion of apprenticeship *and on the job training*; and perform such other duties as are necessary to carry out the intention of this chapter.

Section 5. KRS Chapter 343.050 is amended to read as follows:

Every apprenticeship *or on the job training* agreement approved under this chapter shall contain:

- (1) The names of the contracting parties;
- (2) The date of birth of the apprentice *or trainee*;
- (3) A statement of the trade, craft or business which the apprentice *or trainee* is to be taught and the time at which the apprenticeship *or on the job training* will begin and end;
- (4) A statement showing the number of hours to be spent by the apprentice *or trainee* in work and the number of hours, if any, to be spent in related and supplementary instruction;
- (5) A statement setting forth a schedule of the processes in the trade or industry divisions in which the apprentice *or trainee* is to be taught and the approximate time to be spent at each process;
- (6) A statement of the graduating scale of compensation to be paid the apprentice *or trainee*, and *whether the required school time shall be compensated*;
- (7) A statement providing for a period of probation of not more than four (4) months during which the apprenticeship *or on the job training* agreement shall be terminated by the supervisor at the request of either party in writing, and providing that after the probation period the apprenticeship *or on the job training* agreement may be terminated by the supervisor by mutual agreement of the parties, *or by the supervisor for good and sufficient reason*; and
- (8) A provision that all controversies or differences concerning the apprenticeship *or on the job training* agreement which cannot be adjusted by the parties shall be submitted to the supervisor for determination as provided in KRS 343.070.

Section 6. KRS Chapter 343.060 is amended to read as follows:

No apprentice *or trainee* agreements submitted for approval under this chapter shall be effective until approved by the supervisor. Every apprenticeship *or on the job training* agreement, so submitted, shall be signed by the employer, *or by an association of employers or an organization of employees as provided in this chapter*, and by the apprentice *or trainee*. If the apprentice *or trainee* is a minor, the agreement shall be signed by his parent or guardian. Where a minor enters into an apprenticeship *or on the job training* agreement under this chapter for a period of training extending into his majority, the apprenticeship *or on the job training* agreement shall likewise be binding for the period covered during his majority.

Section 7. KRS Chapter 343.070 is amended to read as follows:

(1) Upon the complaint of either party to the agreement, or upon his own initiative, the supervisor may investigate or determine if there has been a violation of the terms of the apprenticeship *or on the job training* agreement approved under this chapter. He may hold hearings, inquiries, and other proceedings necessary to such investigation and determination. The parties to such agreement shall, after reasonable notice, be given a fair and impartial hearing. All such hearings, investigations, and determinations shall be made under authority of reasonable rules prescribed by the council subject to the approval of the commissioner.

(2) The determination of the supervisor shall be filed with the commissioner. If no appeal therefrom is filed with the commissioner within fifteen (15) days the determination shall become final. Any party aggrieved by any determination or action of the supervisor may appeal to the commissioner, who shall hold a hearing thereon after due notice to the interested parties.

(3) Any party to an apprenticeship *or on the job training* agreement aggrieved by an order or decision of the commissioner may appeal to the Franklin Circuit Court. The decision of the commissioner shall be conclusive if no appeal is filed within sixty (60) days. An appeal from an order of the Franklin Circuit Court

may be had to the Court of Appeals in the manner provided by the Rules of Civil Procedure.

(4) No person shall institute any action for the enforcement of any apprenticeship *or on the job training* agreement made and approved under this chapter unless he has first exhausted all administrative remedies provided by this section.

Section 8. KRS Chapter 343.080 is amended to read as follows:

Nothing in this chapter or in any apprenticeship *or on the job training* agreement approved under this chapter shall operate to invalidate any apprenticeship *or on the job training* provision in any collective agreement between employers and employees *setting up higher standards; provided, that none of the terms or provisions of this chapter shall apply to any person, firm, corporation or crafts unless, such person, firm, corporation or crafts voluntarily elects that the terms and provisions of this chapter shall apply* [or in any individual agreement between employer and employee which agreements have not been submitted for approval under this chapter].

Section 9. KRS Chapter 343.090 is amended to read as follows:

(1) It is the public policy of this state to foster, encourage and develop interest and training in manual and industrial arts, and to encourage the entrance into voluntary agreements of apprenticeship *and on the job training* which will equip young people for profitable employment.

(2) Any contracts or practices which tend to stifle the opportunity as set forth in subsection (1) are contrary to the public policy of this state.

The Committee Substitute for **HB 514** is as follows:

HB 514, AN ACT relating to apprenticeship and training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 343.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Apprentice" means a person at least sixteen (16) years of age who has entered into an apprenticeship agreement with an employer or an association of employers or an organization of employees;

(2) "Apprenticeship agreement" means a voluntary written agreement entered into by the apprentice or through his parent or guardian with an employer, *or an apprenticeship and training committee acting as agent for an employer, which agreement contains the terms and conditions of the employment and training of the apprentice* to enable the apprentice to learn the trade, craft or business of the employer;

(3) "Commissioner" means commissioner of labor *or any authorized person to act in his behalf, having jurisdiction over laws or regulations governing wages and hours of employees working in this state;*

(4) "Council" means apprenticeship and training council; [and]

(5) "Supervisor" means supervisor of apprenticeship *and training*;[.]

(6) "Trainee" means a person at least sixteen years of age who has entered into an on-the-job training agreement with an employer or an association of employers or an organization of employees in a construction occupation under a program which has been approved by a Federal Agency as promoting equal employment opportunity in conjunction with federal-aid construction projects.

(7) "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including such matters as the requirement for a written apprenticeship agreement;

(8) "On the job training program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of a trainee, including such matters as the requirement for a written on the job training agreement other than an apprenticeship program; provided, however, that said program has been approved by a Federal Agency as promoting equal employment opportunity in conjunction with federal-aid construction projects;

(9) "Sponsor" means any person, association, committee, or organization in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer;

(10) "Employer" means any person or organization employing an apprentice or trainee whether or not such person or organization is a party to an apprenticeship *or on the job training* agreement with the apprentice or trainee;

(11) "Related instruction" means an organized and systematic form of instruction designed to provide the apprentice or trainee with knowledge of the theoretical and technical subjects related to his trade.

Section 2. KRS Chapter 343.020 is amended to read as follows:

The governor shall appoint an apprenticeship *and training* council composed of three (3) representatives from employer organizations, and three (3) from employee organizations, who shall serve for a term of three (3) years and until their successors are appointed and qualified. The commissioner of labor and the state official designated by the state board of education as being in charge of trade and industrial education shall be ex officio members of the council. The chairman shall be elected by vote of the apprenticeship *and training* council. *The regular members of the council shall each have one vote. In the event of a tie vote among the regular members, the commissioner of labor shall have the right to cast the tie-breaking vote.* Each member of the council shall receive his actual and necessary expenses incurred in attending its meetings. The council shall meet at the call of the commissioner and shall aid him in formulating policies for the effective administration of this chapter. *The commissioner with the aid of the council shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of this chapter.*

Section 3. KRS Chapter 343.030 is amended to read as follows:

The commissioner, with the approval of the governor, may appoint a supervisor of apprenticeship *and training*. This appointment shall be subject to the confirmation of the council by a majority vote. *He may also appoint such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this chapter.*

Section 4. KRS Chapter 343.040 is amended to read as follows:

The supervisor, under the direction of the commissioner and with the advice and guidance of the council, may administer this chapter in cooperation with the apprenticeship *and training* council; set up conditions and training standards for apprenticeship *or on the job training programs and* agreements; act as secretary to the council; approve, if in his opinion approval is to the best interest of both parties, any apprenticeship *or on the job training program and* agreement submitted to him by the parties thereto, that meets the standards established under this chapter; keep a record of apprenticeship *and on the job training programs and* agreements and their disposition; issue certificates of completion of apprenticeship *and on the job training*; and perform such other duties as are necessary to carry out the intention of this chapter.

Section 5. KRS Chapter 343.050 is amended to read as follows:

Every apprenticeship *or on the job training* agreement approved under this chapter shall contain:

- (1) The names of the contracting parties;
- (2) The date of birth of the apprentice *or trainee*;
- (3) A statement of the trade, craft or business which the apprentice *or trainee* is to be taught and the time at which the apprenticeship *or on the job training* will begin and end;
- (4) A statement showing the number of hours to be spent by the apprentice *or trainee* in work and the number of hours, if any, to be spent in related and supplementary instruction;
- (5) A statement setting forth a schedule of the processes in the trade or industry divisions in which the apprentice *or trainee* is to be taught and the approximate time to be spent at each process;
- (6) A statement of the graduating scale of compensation to be paid the apprentice *or trainee*, *and whether the required school time shall be compensated*;
- (7) A statement providing for a period of probation of not more than four (4) months during which the apprenticeship *or on the job training* agreement shall be terminated by the supervisor at the request of either party in writing, and providing that after the probation period the apprenticeship *or on the job training* agreement may be terminated by the supervisor by mutual agreement of the parties, *or by the supervisor for good and sufficient reason*; and
- (8) A provision that all controversies or differences concerning the apprenticeship *or on the job training* agreement which cannot be adjusted by the parties shall be submitted to the supervisor for determination as provided in KRS 343.070.

Section 6. KRS Chapter 343.060 is amended to read as follows:

No apprentice *or trainee* agreements submitted for approval under this chapter shall be effective until approved by the supervisor. Every apprenticeship *or on the job training* agreement, so submitted, shall be signed by the employer, *or by an association of employers or an organization of employees as provided in this chapter*, and by the apprentice *or trainee*. If the apprentice *or trainee* is a minor, the agreement shall be signed by his parent or guardian. Where a minor enters into an apprenticeship *or on the job training* agreement under this chapter for a period of training extending into his majority, the apprenticeship *or on the job training* agreement shall likewise be binding for the period covered during his majority.

Section 7. KRS Chapter 343.070 is amended to read as follows:

(1) Upon the complaint of either party to the agreement, or upon his own initiative, the supervisor may investigate or determine if there has been a violation of the terms of the apprenticeship *or on the job training* agreement approved under this chapter. He may hold hearings, inquiries, and other proceedings necessary to such investigation and determination. The parties to such agreement shall, after reasonable notice, be given a fair and impartial hearing. All such hearings, investigations, and determinations shall be made under authority of reasonable rules prescribed by the council subject to the approval of the commissioner.

(2) The determination of the supervisor shall be filed with the commissioner. If no appeal therefrom is filed with the commissioner within fifteen (15) days the determination shall become final. Any party aggrieved by any determination or action of the supervisor may appeal to the commissioner, who shall hold a hearing thereon after due notice to the interested parties.

(3) Any party to an apprenticeship *or on the job training* agreement aggrieved by an order or decision of the commissioner may appeal to the Franklin Circuit Court. The decision of the commissioner shall be conclusive if no appeal is filed within sixty (60) days. An appeal from an order of the Franklin Circuit Court may be had to the Court of Appeals in the manner provided by the Rules of Civil Procedure.

(4) No person shall institute any action for the enforcement of any apprenticeship *or on the job training* agreement made and approved under this chapter unless he has first exhausted all administrative remedies provided by this section.

Section 8. KRS Chapter 343.080 is amended to read as follows:

Nothing in this chapter or in any apprenticeship *or on the job training* agreement approved under this chapter shall operate to invalidate any apprenticeship *or on the job training* provision in any collective agreement between employers and employees *setting up higher standards; provided, that none of the terms or provisions of this chapter shall apply to any person, firm, corporation or crafts unless, such person, firm, corporation or crafts voluntarily elects that the terms and provisions of this chapter shall apply* [or in any individual agreement between employer and employee which agreements have not been submitted for approval under this chapter].

Section 9. KRS Chapter 343.090 is amended to read as follows:

(1) It is the public policy of this state to foster, encourage and develop interest and training in manual and industrial arts, and to encourage the entrance into voluntary agreements of apprenticeship *and on the job training* which will equip young people for profitable employment.

(2) Any contracts or practices which tend to stifle the opportunity as set forth in subsection (1) are contrary to the public policy of this state.

The Committee on State Government reported **HB 115** with Committee Substitute attached thereto, **HB 250**, and **HB 369** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 115, AN ACT relating to bills in the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 6 is created to read as follows:

Each bill introduced in the General Assembly shall contain in a position prior to the commencement of its title a statement of concise summary of its content. The clerk shall not accept for introduction any proposed bill not bearing the required summary.

The Committee Substitute for **HB 115** is as follows:

HB 115, AN ACT relating to bills in the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 6 is created to read as follows:

Each bill introduced in the General Assembly shall contain in a position prior to the commencement of its title a statement of the purpose of the bill and its effect in plain concise language. The clerk shall not accept for introduction any proposed bill not bearing the required statement which shall be considered as an expression of legislative intent. Any amendment proposed which will change the purpose or effect of a bill shall also amend the statement to conform to the change.

HB 250, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 441 is created to read as follows:

As used in this Act "jail" includes city jails, county jails, workhouses, and all other facilities for the detention of prisoners except for penitentiaries, reformatories, and juvenile facilities, operated apart and separate from a jail, by agencies of state, county and city government. It also includes any such facility on a joint or jurisdictional basis.

Section 2. A new section of KRS Chapter 441 is created to read as follows:

(1) No political subdivision of this Commonwealth, or no combination of such subdivision shall build a new jail unless the facility meets the approval or complies with the standards and regulations of, as appropriate;

(a) the State Fire Marshal,

(b) the State Health Department,

(c) the Bureau of Corrections, and,

(d) has sufficient design features to assure secure confinement of the prisoners therein as determined by the Bureau of Corrections.

(2) Final authority for approval of plans for the construction of a jail, or an addition or renovation of a jail shall rest with the Bureau of Corrections.

Section 3. A new section of KRS Chapter 441 is created to read as follows:

(1) Any political subdivision, or combination of such subdivision, desiring to build a jail shall make application, in writing, for approval of the plans for such jail not less than 90 days before the advertising for bids for construction of the facility, or if bids are not to be let, 90 days before the construction commences.

(2) The Bureau of Corrections shall review the plans and within 30 days render a decision as to whether the plans are approved. If the plans are not approved then construction shall not commence until the requisite approval is obtained.

Section 4. A new section of KRS Chapter 441 is created to read as follows:

All construction of jails pursuant to approved plans shall be done as provided under those plans and no alterations to the plans or construction shall be made unless prior approval is obtained from the Bureau of Corrections.

Section 5. A new section of KRS Chapter 441 is created to read as follows:

Any political subdivision, or combination of subdivisions desiring to remodel or reconstruct an existing jail facility wherein the construction will involve physical change of the structure shall obtain the requisite approvals required by Sections 2, 3, and 4 of this Act and shall reconstruct or modify the said jail in accordance with the approval.

HB 369, AN ACT relating to state retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, active fire suppression or prevention, or other positions, including but not limited to pilots of the department of aeronautics and correctional officers whose principal duties are guarding felons, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer, to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department indicating that the required employer contributions have been provided for in the budget of the employing department. The board shall determine whether the names certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section;

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation,

seven per cent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 16.551;

(4) Except as provided in subsection (5) of this section, the retirement allowance of a member eligible to retire with service credit earned while serving in a hazardous position shall be based on the benefits of the state police retirement system as indicated below for the period during which contributions were paid as provided under subsection (3) of this section, and the remainder of his benefit shall be based on the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990. Provisions of the state police retirement system are:

- (a) Normal retirement as provided in KRS 16.576 (2) to (8).
- (b) Disability retirement as provided in KRS 16.580 to 16.596.
- (c) Death in line of duty as provided in KRS 16.601.
- (d) Death before retirement as provided in KRS 16.578.

(5) Notwithstanding the provisions of subsection (4) of this section the normal retirement age for a member occupying a hazardous position shall be based on the number of months that the member has paid contributions in accordance with subsection (3) of this section and employer contributions have been paid on his behalf as provided under subsection (3) of this section.

The following schedule shall be used to determine a member's normal retirement date as provided in this subsection:

Number of months' contributions paid as a hazardous position:	Normal retirement age:
12	64
24	63
36	62
48	61
60	60

(6) The maximum employment age for a person hired in a hazardous position shall be as follows:

Effective Date	Maximum Employment Age
July 1, 1972	38
July 1, 1973	37
July 1, 1974	36
July 1, 1975	35

(7) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department and made available to the board upon request.

(8) In the event of any doubt regarding the benefits of a hazardous position under this section, the board shall determine whether the benefits under KRS 61.510 to 61.700 or 78.510 to 78.990 or 16.505 to 16.645 are applicable.

Senate Message

Announcing passage of **SB 58** and **SB 130**.

Calendar

HB 20 with Committee Substitute attached thereto, **HB 81** with Committee Substitute attached thereto, **HB 372** with Committee Amendment attached thereto, **HB 97** with Committee Substitute attached thereto, **HB 240**, **HB 385**, **HB 413**, **HR 31**, **HR 38**, **HB 376**, **HB 377**, and **HB 149** with Committee Amendment attached taken from the Calendar and ordered read at length for the second time. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Speaker Pro Tempore Paxton presiding.

Motions, Petitions and Communications

Representative Stone filed Floor Amendment No. 1 to **HB 276**.

Speaker Blume presiding.

Representative Givhan moved that the Legislative Research Commission be directed to investigate the Office of Auditor of Public Accounts.

On the roll call the vote was yeas 40-Arnold, Bennett, Benson, Blandford, Blume, Blythe, Chandler, Clapp, Dunn, Freeman, Givhan, Graves, Guenther, Holbrook, Holloway, Hughes, Imes, Kafoglis, Kareem, Kenton, Kidd, Lewis, McBride, O'Brien, Pearman, Priddy, Quickert, Richardson, Robinson, Schmidt, Stephens, Stone, Troop, Turner, Van Horn, Cinvent, Watkins, G. White, J. White, Wible. Nays 6-DeMarcus, Denham, Hislope, Paxton, Siemens, Yates.

The motion that the Legislative Research Commission be directed to investigate the Office of Auditor of Public Accounts was adopted.

Representative Schmidt moved the adoption of the following Legislative Citation No. 40:

The House of Representatives of the Commonwealth of Kentucky hereby honors John DeMarcus for having been named the Outstanding Young Man of the Year in Campbell County and one of five Outstanding Young Men in the Commonwealth by the Kentucky Jaycees. This body commends Mr. DeMarcus, Vice President of Administrative Affairs at Northern Kentucky State College, for his contributions to his profession and to the people of Northern Kentucky. It gives pleasure to this body to so recognize John DeMarcus, son of Harold DeMarcus, Minority Leader of the House of Representatives.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 0.

Legislative Citation No. 40 was adopted.

Orders of the Day

Representative Swinford moved that **HB 247** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Thomas moved that **HB 247** be placed upon its passage.

On the roll call the vote was yeas 93-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 247 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 247** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 306** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Little moved that **HB 306** be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays-0.

HB 306 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 306** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 309** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Clapp moved that **HB 309** be placed upon its passage.

On the roll call the vote was yeas 88-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 4-Davis, Hardin, Sharpe, Smith.

HB 309 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 309** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 362**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Amendment No. 1 to **HB 362**. Agreed.

Representative Vincent moved that **HB 362** as amended be placed upon its passage.

On the roll call the vote was yeas 93-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 362 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 362** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 388** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the following Floor Amendment No. 1 to **HB 388**:

Amend printed copy of House Bill 388, pages 1 and 2, lines 5 and 24,

page 1, line 5, after the period, by adding the phrase: "*except in counties containing a city of the first class.*"

page 2, line 24, after the word year, by adding the phrase: "*except in counties containing a city of the first class.*"

Agreed.

Representative Wible moved that **HB 388** as amended be placed upon its passage.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Blythe, Bowles, Brewer, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holloway, Hughes, Hurst, Isler, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stone, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 5-Beshear, Hopkins, Schmidt, Stephens, Van Horn.

HB 388 as amended was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 388** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **SB 81** be deferred and that it retain its position in Orders of the Day. Agreed.

Speaker Pro Tempore Paxton presiding.

Representative Swinford moved that **HB 12** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the following Floor Amendment No. 1 to **HB 12**:

Amend printed copy of House Bill 12, page 3, line 22, by deleting the words "before or".

On the roll call the vote was yeas 59-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, R. Brown, Bruce, Burch, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Head, Hellard, Holbrook, Hughes, Hurst, Imes, Kafoglis, Kareem, Kenton, Lindsay, Little, Mason, Maynard, McBrayer, McBride, McGill, O'Brien, Pearman, Reynolds, Richardson, Robinson, Romines, Sale, Stephens, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Whitfield, Wible, Yates. Nays 18-Blythe, Brewer, Chandler, Hardin, Isler, Kleier, Lewis, Mann, McBee, Overstreet, Paxton, Quickert, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, J. White.

Floor Amendment No. 1 to **HB 12** was adopted.

Representative Donnermeyer moved that **HB 12** as amended be placed upon its passage.

On the roll call the vote was yeas 54-Bennett, Benson, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Guenther, Harris, Head, Hislope,

Holbrook, Holloway, Isler, Kenton, Kidd, King, Kleier, Lewis, Mann, Maynard, McBee, McGill, Overstreet, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Siemens, Smith, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, J. White, Whitfield, Wible, Yates. Nays 32-Adams, Allen, Beshear, Clapp, Clarke, Crupper, Dawahare, Denham, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hellard, Hughes, Hurst, Imes, Kafoglis, Kareem, Lindsay, Mason, May, McBrayer, McBride, O'Brien, Pearman, Rattliff, Sale, Stephens, Stone, Vincent.

HB 12 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 12** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 316** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved the adoption of the following Floor Amendment No. 1 to **HB 316**:

Amend printed copy of House Bill 316, pages 1 and 2, lines 7 and 7,

on page 1, line 7, delete the word *thirty* and substitute the word *fifteen*; and on page 2, line 7, delete the word *thirty* and substitute the word *fifteen*.

Agreed.

Representative Burch moved that **HB 316** as amended be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stone, Swinford, Troop, Turner, VanHorn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 1-Stephens.

HB 316 as amended was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 316** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 330** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Benson moved that **HB 330** be placed upon its passage.

On the roll call the vote was yeas 39-Bennett, Benson, Beshear, Blandford, Blythe, R. Brown, Bruce, Burch, Chandler, Clarke, Dietz, Donnermeyer, Dunn, Gay, Givhan, Hellard, Kafoglis, Kareem, Kenton, Kidd, Kleier, Mann, Mason, Paxton, Priddy, Quickert, Reynolds, Richardson, Robinson, Schmaedecke, Schmidt, Siemens, Stone, Swinford, Thomas, Troop, Van Horn, J. White, Whitfield, Yates. Nays 45-Adams, Allen, Arnold, Brewer, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Foster, Freeman, Graves, Guenther, Hancock, Hardin, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Lewis, Lindsay, Little, May, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Pearman, Rattliff, Sale, Sharpe, Smith, Stephens, Turner, Vincent, Watkins, Wells, G. White, Wible.

HB 330 was defeated.

Representative McBride moved that the vote by which **HB 330** was defeated be reconsidered for the purpose of offering amendments and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 56-Arnold, Bennett, Benson, Beshear, Blandford, Blythe, R. Brown, Bruce, Burch, Chandler, Clarke, Dietz, Donnermeyer, Dunn, Gay, Graves, Guenther, Harris, Hellard, Holbrook, Hopkins, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Mann, Mason, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Priddy, Quickert, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Siemens, Stone, Swinford, Thomas, Troop, Van Horn Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 25-Adams, Allen, Brewer, Clapp, Crupper, Dawahare, DeMarcus, Denham, Foster, Freeman, Hancock, Hardin, Hislope, Holloway, Hughes, Hurst, Lindsay, Pearman, Rattliff, Sale, Sharpe, Smith, Stephens, Turner, Wells.

The motion that the vote on **HB 330** be reconsidered and that it retain its position in Orders of the Day was adopted.

Representative Swinford moved that **HB 331** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Blythe moved that **HB 331** be placed upon its passage.

On the roll call the vote was yeas 87-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 331 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 331** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 359** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Harris moved that **HB 359** be placed upon its passage.

On the roll call the vote was yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 359 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 359** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 365** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Dunn moved that **HB 365** be placed upon its passage.

Representative Quickert moved that **HB 365** be laid on the table.

On the roll call the vote was yeas 25-Blythe, R. Brown, Bruce, Crupper, Davis, Dawahare, Denham, Foster, Freeman, Gay, Guenther, Hancock, Head, Hughes, Hurst, Kidd, Lindsay, Mason, O'Brien, Quickert, Sale, Sharpe, G. White, J. White, Whitfield. Nays 54-Allen, Arnold, Bennett, Blandford, Blume,

Brewer, Burch, Chandler, Clapp, DeMarcus, Donnermeyer, Dunn, Givhan, Graves, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Imes, Isler, Kafoglis, Kareem, Kenton, Lewis, Little, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Paxton, Priddy, Rattliff, Reynolds, Richardson, Romines, Schmidt, Siemens, Smith, Stephens, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Wible, Yates.

The motion that **HB 365** be laid on the table was rejected.

On the roll call the vote was yeas 60-Adams, Allen, Arnold, Bennett, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Dawahare, DeMarcus, Donnermeyer, Dunn, Gay, Graves, Guenther, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Isler, Kafoglis, Kareem, Kenton, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmidt, Siemens, Smith, Stephens, Stone, Swinford, Turner, Van Horn, Vincent, Watkins, Wells, Wible, Yates. Nays 23-Beshear, Clarke, Crupper, Davis, Denham, Foster, Givhan, Hancock, Head, Hughes, Hurst, Imes, Kleier, Morgan, O'Brien, Pearman, Quickert, Robinson, Sharpe, Troop, G. White, J. White, Whitfield.

HB 365 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 365** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 44, SB 100, SB 131, SB 133, SB 153, SB 155, SB 172, and SB 188.**

Announcing passage of **HB 45, HB 105, HB 135, HB 137, HB 203, and HB 275.**

Orders of the Day (continued)

Representative Swinford moved that **SJR 9** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Schmaedecke moved that **SJR 9** be placed upon its passage.

Representative Kafoglis moved that **SJR 9** be placed upon the table.

On the roll call the vote was yeas 14-Beshear, Blume, Blythe, Clarke, Freeman, Graves, Imes, Kafoglis, Kareem, Mason, Richardson, Stephens, Swinford, Turner. Nays 75-Adams, Allen, Arnold, Bennett, Benson, Blandford, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Hurst, Isler, Kenton, King, Kleier, Lewis, Little, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stone, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates.

The motion that **SJR 9** be laid on the table was rejected.

Representative Kareem moved that the Rules be suspended for the purpose of introducing an amendment.

Representative Graves moved that **SJR 9** be laid on the Clerk's desk until February 15, 1974.

Representative Lindsay moved that the House adjourn until 10:00 A.M., February 15, 1974.

On the roll call the vote was yeas 30-Arnold, Beshear, Blythe, Clapp, Clarke, Foster, Freeman, Graves, Hellard, Hopkins, Imes, Kafoglis, Kareem, Kenton, Lindsay, May, McBrayer, McGill, O'Brien, Paxton, Rattliff, Richardson, Robinson, Sale, Sharpe, Stone, Turner, Watkins, Wells, Whitfield. Nays 52-Adams, Allen, Bennett, Benson, Blandford, Brewer, R. Brown, Burch, Chandler, Crupper, Davis, Dawahare,

DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Gay, Givhan, Guenther, Head, Hislope, Holbrook, Holloway, Hughes, Hurst, Isler, King, Kleier, Lewis, Little, Mann, Maynard, McBee, McBride, Nett, Pearman, Priddy, Quickert, Schmaedecke, Schmidt, Diemens, Smith, Stephens, Thomas, Troop, Van Horn, Vincent, G. White, J. White, Wible, Yates.

The motion to adjourn was rejected.

On the roll call the vote was yeas 29-Beshear, Blythe, Clapp, Clarke, Foster, Freeman, Graves, Harris, Holbrook, Hopkins, Imes, Kafoglis, Karem, Lindsay, May, McGill, O'Brien, Paxton, Rattliff, Richardson, Robinson, Sale, Stone, Swinford, Turner, Vincent, Watkins, Wells, J. White. Nays 57-Adams, Allen, Bennett, Benson, Blandford, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Gay, Givhan, Guenther, Hardin, Head, Hellard, Hislope, Holloway, Hughes, Hurst, Isler, Kenton, King, Kleier, Lewis, Little, Mann, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Pearman, Priddy, Quickert, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Van Horn, G. White, Whitfield, Wible, Yates.

The motion that **SJR 9** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 54-Arnold, Benson, Beshear, Blume, Blythe, Bruce, Chandler, Clarke, Davis, Dawahare, Foster, Freeman, Givhan, Graves, Guenther, Hardin, Harris, Hellard, Holbrook, Hopkins, Imes, Kafoglis, Karem, Kenton, Lewis, Lindsay, Little, Mason, May, McBrayer, McBride, McGill, O'Brien, Paxton, Priddy, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Sharpe, Smith, Stephens, Stone, Swinford, Troop, Turner, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 35-Adams, Allen, Bennett, Blandford, Brewer, R. Brown, Burch, Clapp, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Gay, Head, Hislope, Holloway, Hughes, Hurst, Isler, King, Mann, Maynard, McBee, Morgan, Nett, Pearman, Schmaedecke, Schmidt, Siemens, Thomas, Van Horn, G. White, Yates.

The motion that the Rules be suspended for the purpose of introducing an amendment to **SJR 9** was adopted.

Representative Karem moved the adoption of the following Floor Amendment No. 1 to **SJR 9**:

Amend printed copy of Senate Resolution 9, page 1, lines 3-25, by deleting lines 3 through 25 in their entirety;

and on page 2, by deleting lines 1 through 7 in their entirety;

and on page 2, line 11, by deleting after the word "life" the words "by extending the same constitutional";

and on page 2, by deleting lines 12 through 17 in their entirety;

and on page 2, line 11, by adding a period after the word "life".

On the roll call the vote was yeas 35-Arnold, Beshear, Blume, Blythe, Clarke, Dawahare, Foster, Freeman, Graves, Harris, Hellard, Holbrook, Hopkins, Imes, Kafoglis, Karem, Lindsay, Mason, McGill, O'Brien, Paxton, Rattliff, Richardson, Romines, Sale, Stephens, Stone, Swinford, Troop, Turner, Vincent, Watkins, Wells, Whitfield, Wible. Nays 54-Adams, Allen, Bennett, Benson, Blandford, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Gay, Givhan, Guenther, Hancock, Hardin, Head, Hislope, Holloway, Hughes, Hurst, Isler, Kenton, King, Kleier, Lewis, Mann, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Pearman, Quickert, Reynolds, Robinson, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Thomas, Van Horn, G. White, J. White, Yates.

Floor Amendment No. 1 to **SJR 9** was rejected.

On the roll call the vote was yeas 81-Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe,

Siemens, Smith, Stone, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 12-Beshear, Blythe, Clarke, Freeman, Graves, Imes, Kafoglis, Karem, Mason, Stephens, Swinford, Turner.

SJR 9 was passed and the title agreed to.

Representative Schmaedecke moved that the vote by which **SJR 9** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Speaker Blume presiding.

Representative Swinford moved that **SB 14** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Holbrook moved that **SB 14** be placed upon its passage.

On the roll all the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

SB 14 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 14** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The following meetings were announced:

Highways and Traffic Safety, 9:30 A.M., February 15, 1974, Room 305.

Judiciary, 9:00 A.M., February 15, 1974, Room 305A.

Representative Swinford moved that the Rules be suspended for Posting of Bills and Resolution for Consideration and Introduction of Bills and Resolutions. Agreed.

Posting of Bills and Resolution for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 468, HB 471, HB 472.**

Banking and Insurance: **HB 314, HB 186, HB 486.**

Introduction of Bills and Resolutions

HB 570, by Representatives Denham, Clarke, Kenton and Richardson: AN ACT relating to cities.

HB 571, by Representative Beshear: AN ACT relating to bail bondsmen and the taxation thereof.

HB 572, by Representatives Denham, Blandford and Wible: AN ACT relating to full state support for the State Circuit Courts operation and Commonwealth Attorney staffs relieving the Fiscal Courts thereof.

HB 573, by Representatives Kenton, Karem, Beshear and Hopkins: AN ACT relating to transit authorities.

Announcements (continued)

Representative Schmaedecke filed Floor Amendment No. 4 to **HB 50**.

Representative Benson filed Floor Amendment No. 2 to **HB 330**.

Representative Lindsay filed Floor Amendment No. 1 to **HB 330**.

Representative Graves filed Floor Amendment No. 2 to **HB 21**.

Representative Kenton filed Floor Amendment No. 2 to **HB 304**.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 A.M., Friday, February 15, 1974.

On the roll call the vote was yeas 63-Adams, Allen, Arnold, Bennett, Beshear, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Head, Hellard, Holbrook, Hopkins, Hurst, Imes, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Mann, Mason, May, McBee, McBride, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Sale, Schmaedecke, Schmidt, Stephens, Stone, Swinford, Thomas, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 0.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 15, 1974

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Senator Walter Strong.

The roll was called. All present except Representatives E. Brown, Hinkle, and Stewart.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives E. Brown, Hinkle, and Stewart.

Representative Hughes moved that the reading of the Journal of February 14, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 574, by Representative Blythe: AN ACT relating to motor vehicle mufflers.

HB 575, by Representatives Overstreet, DeMarcus, Allen, Davis, Hislope, Hopkins, Rattliff, Robinson, Schmidt and Smith: AN ACT relating to statutory liens.

HB 576, by Representative Dietz, Imes, McBrayer and Isler: AN ACT relating to motor vehicles.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 508, HB 495.**

Labor and Industry: **HB 280, HB 535, HB 527, HB 521.**

Judiciary: **HB 95, HB 227, HB 180.**

Highways and Traffic Safety: **HR 41.**

Report of Committees

The Committee on Rules reported **HB 42** with Committee Amendment attached thereto, **HB 93, HB 128, HB 333** with Committee Amendment attached thereto, **HB 389** with Committee Amendment attached thereto, **HB 467, HB 103** with Committee Amendment attached thereto, **HB 151, HB 376, HB 377, HB 385, HB 413, HR 31** and **HR 38** have been posted for passage on February 19, 1974.

The Committee on Rules reported **HB 303** has been recommitted to the Committee on Agriculture and Natural Resources for study as to how it affects farmer's liability.

The Committee on Rules reported **HB 340**, with Committee Amendment attached thereto, has been recommitted to the Committee on Judiciary for study of legal implications.

The Committee on Judiciary reported **HB 332, HB 386, and HB 404**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 332, AN ACT relating to liability to trespassers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 381 is created to read as follows:

(1) A "trespasser" means any person who enters or goes upon the real estate of another without any right, lawful authority or invitation, either expressed or implied, but does not include persons who come within the scope of the "attractive nuisance" doctrine.

(2) An owner of real estate means any person who possesses any interest in real estate or any lawful occupant of real estate.

Section 2. A new section of KRS Chapter 381 is created to read as follows:

The owner of real estate shall not be liable to any trespasser for injuries sustained by the trespasser on the real estate of the owner, except for injuries which are intentionally inflicted by the owner or someone acting for the owner.

HB 386, AN ACT relating to civil rights.

WHEREAS, the purpose of the Kentucky Civil Rights Act is to provide for execution within the State of the policies embodied in Federal civil rights law; and

WHEREAS, housekeeping amendments are needed to the Kentucky Civil Rights Act of 1966 as amended in 1968 and 1972 to carry out policies of Federal Civil Rights Acts and recent court decisions;
NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(2) "Employment agency" means a person regularly undertaking with or without compensation to procure employes for an employer or to procure for employes opportunities to work for an employer and includes an agent of such person.

(3) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(4) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer.

(5) "*Religion*" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Section 2. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty days after the alleged unlawful practice occurs[, except that a complaint alleging discrimination in real estate transaction must be filed within thirty days, and a complaint alleging discrimination in employment (under KRS 344.030 to 344.110) must be filed within ninety days].

(2) The commission shall determine within thirty days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(3) The complainant, within ten days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and such

other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under KRS 344.160, 344.190 to 344.210, and 344.230 to 344.260, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper.

Section 3. KRS 344.230 is amended to read as follows:

(1) If the commission determines that the respondent has not engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(2) If the commission determines that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, the attorney general, and to such other public officers and persons as the commission deems proper.

(3) Affirmative action ordered under this section may include but is not limited to:

(a) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.

(c) Admission of individuals to a place of public accommodation, resort, or amusement.

(d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.

(e) Reporting as to the manner of compliance.

(f) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission.

(g) *Sale, exchange, lease, rental, assignment or sublease of real property to an individual.*

(h) *Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, and expense incurred by the complainant in obtaining alternative housing accommodations and for other costs actually incurred by the complainant as a direct result of such unlawful practice.*

(4) The commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice.

Section 4. KRS 344.365 is amended to read as follows:

(1) Nothing in KRS 344.360 shall apply:

(a) To the rental of a housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of *one room or one rooming unit in a* [a portion of a] housing accommodation by *an individual* [the occupant of the housing accommodation, or by the owner of the housing accommodation] if he or a member of his family resides therein;

(c) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association, or society, limits, or gives preferences in, the sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers,

tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained.

(2) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(3) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

HB 404, AN ACT relating to the renting or leasing of personal property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 434 is created to read as follows:

(1) As used in this Act the following words shall have the following meanings:

(a) "Person" means an individual, partnership, association or corporation;

(b) "Address" means the place at which the rented or leased personal property is located;

(c) "Personal property" means household goods and appurtenances, appliances and other similar personal property.

(2) A person who rents or leases personal property under an agreement to relinquish possession of such property to the lessor at the expiration of the lease or rental period, shall not, prior to the expiration of such period, remove the personal property to any other address or relinquish custody of such property without first giving the lessor at least ten (10) days written notice, delivered in person or by registered or certified mail with a return receipt requested.

(3) Removing the personal property, or any part thereof, to a new or different location, permitting another person, not a party to the lease agreement, to take possession of the personal property, or any part thereof, or moving from the address and abandoning the personal property shall constitute prima facie evidence of the lessee's intention to defraud the lessor.

(4) Any person described in subsection (2) of this Act who attempts to defraud a lessor of leased personal property shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200), or imprisoned for thirty (30) days, or both.

The Committee Substitute for **HB 404** is as follows:

HB 404, AN ACT relating to the renting or leasing of personal property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 434 is created to read as follows:

(1) As used in this Act the following words shall have the following meanings:

(a) "Person" means an individual, partnership, association or corporation;

(b) "Address" means the place at which the rented or leased personal property is located;

(c) "Personal property" means household furnishings and appliances.

(2) A person who rents or leases personal property under an agreement to relinquish possession of such property to the lessor at the expiration of the lease or rental period, shall not, prior to the expiration of such period, remove the personal property to any other address and relinquish custody of such property without first giving the lessor at least ten (10) days written notice, delivered in person or by certified mail with a return receipt requested.

(3) Removing the personal property, or any part thereof, to a new or different location and relinquishing custody of such property, or permitting another person, not a party to the lease agreement, to take possession of the personal property, or any part thereof, or moving from the address and abandoning the personal property shall constitute prima facie evidence of the lessee's intention to defraud the lessor.

(4) Any lease under subsection (2) of this Act shall recite verbatim subsections (1), (2), (3), and (4) of this Act.

(5) Failure of lessor to comply with subsection (4) of this Act shall void lessor's relief herein.

(6) Any person described in subsection (2) of this Act who attempts to defraud a lessor of leased personal property shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200), or imprisoned for thirty (30) days, or both.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 23, HB 45, HB 105, HB 135, HB 137, HB 203, and HB 275** have been examined and found correctly enrolled. **SB 23, HB 45, HB 105, HB 135, HB 137, HB 203, and HB 275** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 45, HB 105, HB 135, HB 137, HB 203, and HB 275 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 9 with Committee Amendment attached thereto, **HR 30, HB 343** with Committee Amendment attached thereto, **HB 126** with Committee Amendment attached thereto, **HB 132, HB 354, HB 455, HB 410, HB 429, HB 290, HB 21** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **SB 87, HB 251, HB 252, HB 268, HB 305, HB 133** with Committee Amendment attached thereto, **HB 167, HB 375, HB 390, HB 391,** with Committee Amendment attached thereto, **HB 407** with Committee Substitute attached thereto, **HB 421, HB 422, HR 26** with Committee Substitute attached thereto, **HB 301, HB 367, HB 264, HB 420, HB 514** with Committee Substitute attached thereto, **HB 115** with Committee Substitute attached thereto, **HB 250,** and **HB 369** taken from the Calendar and ordered read at length for the second time. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Benson moved the adoption of the following Legislative Citation No. 41:

The House of Representatives of the Commonwealth of Kentucky hereby honors Glenn R. Winters for his years of leadership as the Executive Director of the American Judicature Society and for his efforts to promote the efficient administration of justice. This body recognizes and applauds the great progress made under the leadership of Mr. Winters and extends best wishes for the future. (Sponsored by Representative Benson)

Agreed.

Representative Dietz moved the adoption of the following Legislative Citation No. 38:

The House of Representatives of the Commonwealth of Kentucky hereby honors the memory of Mrs. Rosalin Barnette Steinfeld and expresses its sympathy to George W. Steinfeld, former Representative who served this Commonwealth with distinction for three terms. (Sponsored by Representatives Dietz and Isler)

Agreed.

Representative Guenther moved the adoption of the following Legislative Citation No. 47:

The House of Representatives of the Commonwealth of Kentucky hereby commends Captain Leroy Faulkner, Kentucky State Police Commander of Post 11, and the men of Post 11 for the efficient and professional manner in which the traffic, crowd, and security were controlled during the visit of Vice President Gerald Ford to London, Kentucky, on February 13, 1974. (Sponsored by Representative Guenther)

Agreed.

Representative Hopkins moved the adoption of the following Legislative Citation No. 39:

The House of Representatives of the Commonwealth of Kentucky hereby honors Mrs. Rhea A. Taylor, Director of Child Development Centers, for her many contributions to children's services in Kentucky. This body commends Mrs. Taylor for her foresight and leadership in pioneering programs to provide opportunities for handicapped children. Under Mrs. Taylor's leadership the U.C.P.B. has provided therapies and educational training for more than twelve hundred children. This body praises Mrs. Rhea A. Taylor for her recognition of the child's individual needs and her efforts which have enriched so many lives. (Sponsored by Representative Hopkins)

Agreed.

Representative Schmaedecke moved the adoption of the following Legislative Citation No. 48:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Beechwood High School Tigers football team on being invited to participate in the Mt. Sterling Recreational Bowl, August 24, 1974. This body commends the Tigers' performances which merited this first-time invitation and extends best wishes for success. (Sponsored by Representative Schmaedecke)

Agreed.

The following members requested that their names be added as co-sponsors of Bills:

Representative Foster, **HB 498**; Representative Gay, **HB 552**; Representative Hislope, **HB 307**; Representative Holbrook, **HB 472**; Representative Burch, **HB 521**; Representative Chandler, **HB 330**; Representative Mann, **HB 455**.

Representative Mann requested that he be recorded as voting "nay" on **HB 388**.

Representative McBride moved that the Rules be suspended to amend the Rules of the House of Representatives.

Representative Richardson moved that the motion that the rules be suspended to amend the Rules of the House of Representatives be laid on the table. Agreed.

Representative Burch requested that he be recorded as voting "yea" on **HB 247**.

Representative Robinson requested that he be recorded as voting "yea" on **HB 306**.

Speaker Pro Tempore Paxton presiding.

Orders of the Day

Representative Swinford moved that **SB 81** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 81** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Wible, Yates. Nays 2-Stone, Whitfield.

SB 81 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 81** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 304** and **HB 330** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 276** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Stone moved the adoption of the following Floor Amendment No. 1 to **HB 276**:

Amend printed copy of House Bill 276 on page 1, line 3 by adding after the word "counselor" the following: "who meets the requirements issued pursuant to the authority of KRS 161.030, and"

and on line 7, after the words "of the" add "student"

and on line 8, after the words "by the" add "student"

and on line 10, in front of the word "counselee" insert "student"

and on line 13, in front of the word "counselee" insert "student"

Agreed.

Representative Stone moved that **HB 276** be placed upon its passage as amended.

On the roll call the vote was yeas 91-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 3-Hughes, Kenton, Richardson.

HB 276 as amended was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 276** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Stone moved that a call of the roll be taken to show co-sponsors of **HB 276**. Agreed.

The following members voted to co-sponsor **HB 276**: Representatives Adams, Allen, Arnold, Benson, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Crupper, Dawahare, DeMarcus, Foster, Gay, Head, Hislope, Hopkins, Imes, Kafoglis, Kidd, King, Lewis, Little, Mann, Mason, May, Maynard, McGill, Overstreet, Pearman, Romines, Sale, Stephens, Van Horn, Vincent, J. White, Wible, Yates.

Representative Swinford moved that consideration of **HB 313** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 356** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the following Floor Amendment No. 1 to **HB 356**.

Amend printed copy of House Bill 356 on page 3, line 24 by changing the word "mortgage" to "mortgagee"

Agreed.

Representative Swinford moved that **HB 356** as amended be placed upon its passage.

On the roll call the vote was yeas 93-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 356 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 356** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 384**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representatives Bruce moved the adoption of Committee Amendment No. 1 to **HB 384**. Agreed.

Representative Bruce moved the adoption of the following Floor Amendment No. 2 to **HB 384**:

Amend printed copy of House Bill 384 on page 1, lines 4 and 5 by changing the title to "AN ACT relating to planning and zoning." and by deleting the following "establishing any planning unit authorized by KRS 100.113" and inserting in place thereof "enacting a zoning ordinance"

and on line 5, by deleting the word "unincorporated"

and on line 6, by deleting "within the county" and inserting in place thereof "affected thereby"

and on line 9, by deleting "The question of the establishment of an inde-"

and by deleting all of line 10

and on line 11, by deleting "voters until KRS 100.117 has been complied with"

and on lines 15 and 16 by deleting "establishment of such planning unit" and inserting in place thereof "zoning ordinance"

and on line 17, by deleting "planning unit" and inserting in place thereof "such zoning ordinance"

and on line 19, by deleting "three" and inserting in place thereof "two"

Agreed.

Representative Bruce moved that **HB 384** as amended be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 2-Lindsay, Schmaedecke.

HB 384 as amended was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 384** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Speaker Blume presiding.

Representative Swinford moved that **HR 36** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to **HR 36**:

Amend printed copy of House Resolution 36 on page 2, line 3, by deleting after the colon the words "one or more members of" and substituting in lieu thereof the words "two members from";

and on page 2, line 5, by deleting after the comma the words "one or more members of" and substituting in lieu thereof the words "two members from".

Agreed.

Representative Lindsay moved that **HR 36** as amended be placed upon its passage.

HR 36 as amended was adopted by voice vote.

Representative Lindsay moved that the vote by which **HR 36** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **SB 9** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Karem moved that **SB 9** be placed upon its passage.

On the roll call the vote was yeas 87-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

SB 9 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 9** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 14** and **SR 9** had been examined and found correctly enrolled. **SB 14** and **SR 9** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative Swinford moved that the House concur in the following Senate Amendment to **HB 11**:

Amend printed copy of House Bill 11 on page 1, line 11 after the word "Dispute" and the following words: *and the services of the Commissioner have been accepted,*

Agreed.

Representative Swinford moved that **HB 11** as amended be placed upon its passage.

On the roll call the vote was 81-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 1-Troop.

HB 11 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 11** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Swinford moved that the Rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 577, by Representatives Romines, Chandler, Head, Pearman, Siemens, and Thomas: AN ACT relating to state personnel.

HB 578, by Representative Beshear: AN ACT relating to bail bondsmen.

HB 579, by Representatives Morgan, Stephens, Hinkle, Sale, Denham, Little, Adams, Allen, Arnold, Bennett, Benson, Beshear, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kenton, King, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Roberts, Schmidt, Sharpe, Siemens, Smith, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield and Wible: AN ACT relating to teachers retirement system.

HB 580, by Representative O'Brien: AN ACT relating to motor vehicles.

HB 581, by Representatives Swinford, Loudon, Crupper, Hellard, and Sale: AN ACT relating to state retirement systems.

HB 582, by Representatives Guenther, Blume, Chandler, Kenton, Schmaedecke, and Schmidt: AN ACT relating to motor vehicle operator's licenses.

HB 583, by Representatives Clarke, Hellard, and Richardson: AN ACT relating to the turnpike authority of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 100, HB 101, HR 39.**

Public Utilities: **HB 76.**

Business Organizations and Professions: **HB 444.**

Appropriations and Revenue: **HB 517.**

Announcements (continued)

Representative Quickert announced a meeting of the Committee on Judiciary upon adjournment, February 19, 1974.

Representative Freeman announced a meeting of the Committee on Education, 2:00 P.M., February 19, 1974.

Representative Clarke announced Budget Hearings to resume at 1:00 P.M. today and on February 18, 1974, at 1:00 P.M.

Representative Siemens announced a meeting of the Committee on Labor, 10:00 A.M., February 21, 1974, Court Room.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Tuesday, February 19, 1974.

On the roll call the vote was yeas 79-Allen, Arnold, Bennett, Benson, Beshear, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hughes, Hurst, Isler, Kafoglis, Karem, Kidd, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nay 1-Imes.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 19, 1974

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father Henry C. Stuecker, St. Simon and Jude Church, Louisville, Kentucky.

The roll was called. All present except Representative Hinkle.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representative Hinkle.

Representative Hughes moved that the reading of the Journal of February 15, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 584, by Representative G. White: AN ACT relating to camping trailers.

HB 585, by Representative Hughes: AN ACT relating to county court clerks of counties containing a city of the first class.

HB 586, by Representative Van Horn: AN ACT relating to fiscal courts.

HB 587, by Representative King: AN ACT relating to the treatment of pulmonary fungus disorders.

HB 588, by Representative King: AN ACT relating to tuberculosis sanatorium districts.

HB 589, by Representative Paxton: AN ACT relating to dissolution of marriage.

HB 590, by Representative Clarke: AN ACT relating to the disclosure of psychiatric information.

HB 591, by Representative Clarke: AN ACT relating to the equalization of ability to fund the public schools.

HB 592, by Representative Hellard: AN ACT relating to public property.

HB 593, by Representative Lindsay: AN ACT relating to motor carriers of household goods.

HB 594, by Representatives Siemens and Little: AN ACT relating to employment.

HB 595, by Representative Lindsay: AN ACT relating to motor vehicle operator's licenses.

HB 596, by Representative Turner: AN ACT relating to newspapers.

HB 597, by Representatives Roberts, Little and Bennett: AN ACT relating to education.

HB 598, by Representative Morgan: AN ACT relating to demotion procedures for administrative personnel in public elementary and secondary schools.

HB 599, by Representatives Schmaedecke and Givhan: AN ACT relating to termination of assumed business names.

HB 600, by Representatives Kenton, Burch, Chandler, Dietz, Donnermeyer, Dunn, Freeman, Gay, Graves, Harris, Hopkins, Hughes, Isler, Kareem, Kidd, King, Kleier, Lewis, Mann, Maynard, McBee, McBrayer, Morgan, Overstreet, Priddy, Quickert, Reynolds, Schmaedecke, Siemens, Van Horn, and Wible: AN ACT relating to police and firemen's benefit fund in cities of the second class.

HB 601, by Representatives Van Horn, Burch, Bennett, Chandler, Isler, King, Siemens, and J. White: AN ACT relating to regularly paid fire departments.

HB 602, by Representative Schmaedecke: AN ACT relating to the settlement of damage claims arising from the use of explosive devices in highway construction projects.

HB 603, by Representatives Denham and Kenton: AN ACT relating to historic preservation.

HB 604, by Representatives Donnermeyer, McBee and Mann: AN ACT relating to airport security and the training of airport police officers.

HB 605, by Representative Donnermeyer: AN ACT relating to area planning commissions.

HB 606, by Representative Donnermeyer: AN ACT relating to changing the classification of Wilder in Campbell County.

HB 607, by Representatives Donnermeyer and Morgan: AN ACT relating to clerks' fees.

HB 608, by Representative Little: AN ACT relating to mobile home parks.

HB 609, by Representative Freeman: AN ACT relating to credit transactions.

HB 610, by Representative Guenther: AN ACT relating to metropolitan sewer districts.

HB 611, by Representative Mann: AN ACT relating to the Council on Public Higher Education.

HB 612, by Representative Little: AN ACT relating to oil and gas.

HB 613, by Representative Clapp: AN ACT relating to highway construction.

HB 614, by Representative Little: AN ACT relating to collective bargaining for non-profit hospital employees.

HB 615, by Representative Mann: AN ACT relating to sick leave for teachers.

HR 56, by Representative Brewer: A RESOLUTION honoring Paul Green.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 562**, **SB 131**, **HB 556**.

Appropriations and Revenue: **HB 545**, **HB 555**, **HB 559**, **HB 566**, **HB 568**, **HB 572**.

Banking and Insurance: **HB 549**, **HB 571**, **HB 578**.

Business Organizations and Professions: **HB 569**, **SB 100**.

Cities: **HB 565**, **HB 567**, **HB 570**, **HB 573**.

Education: **HB 561**, **HR 55**, **HCR 52**, **HB 579**.

Health and Welfare: **HCR 50**.

Highways and Traffic Safety: **HB 551**, **HB 547**, **HB 563**, **HB 557**, **HB 575**, **HB 576**, **HB 580**, **HB 582**.

Judiciary: **HB 543**, **HB 546**, **HB 548**, **HB 554**, **HB 564**, **SB 133**.

Labor and Industry: **HB 544**, **HB 550**, **HR 51**.

Public Utilities and Transportation: **SB 188**.

State Government: **HB 552**, **HB 553**, **HB 558**, **SB 44**, **SB 153**, **SB 155**, **SB 172**, **HB 560**, **HR 54**, **HR 53**, **HB 574**, **HB 577**, **HB 581**, **HB 583**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 11** has been examined and found correctly enrolled. **HB 11** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 11 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 111, SB 117, SB 124, SB 137, HB 64** with Amendment, and **HB 164** with Amendment.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 395, HB 481, HB 503.**

Business Organizations and Professions: **HB 537, HB 480, HB 456.**

Report of Committees

The Committee on Rules reported **HB 81** with Committee Substitute attached thereto, **HB 97** with Committee Substitute attached thereto, **HB 240, HB 372** with Committee Amendment attached thereto, **HB 9** with Committee Amendment thereto, **HB 88, HB 115** with Committee Substitute attached thereto, **HB 126** with Committee Amendment attached thereto, **HB 132, HB 250, HB 251, HB 252, HB 301, HB 354, HB 367, HB 369, HB 390, HB 391** with Committee Amendment attached thereto, **HB 420, HB 429, and HB 455** have been posted for passage in Orders of the Day, February 20, 1974.

The Committee on Rules reported **HB 264** has been recommitted to the Committee on Judiciary for study of its legal implications as to the ability of people without training to render judicial decisions.

The Committee on Rules reported **HB 410** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 290** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Education reported **HB 40**, with Committee Substitute attached thereto, and **HB 271**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to exemptions from compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the state board of education[; or].

[(c) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or]

[(d) Who is deaf or blind to an extent that renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition permits application to study.]

[(2) Before granting an exemption under paragraph (c) of subsection (1) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school.]

The Committee Substitute for **HB 40** is as follows:

HB 40, AN ACT relating to exemptions from compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

- (a) Who is a graduate from an accredited or an approved four (4) year high school; or
- (b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the state board of education; or
- (c) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or
- (d) *Who is enrolled and in regular attendance in state approved private or parochial school programs for exceptional children; or* [Who is deaf or blind to an extent that renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition permits application to study.]

(e) *Who is enrolled and in regular attendance in a state supported program for exceptional children.*

(2) Before granting an exemption under paragraph (c) of subsection (1) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, psychologist or psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school.

(3) *For any such child who is excluded under the provisions of subsection (1)(c) of subsection (2) of this Act, home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the State Board of Education shall be provided.*

HB 271, AN ACT relating to education for exceptional children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.280 is amended to read as follows:

(1) If the number of children of compulsory school age in one (1) classification of exceptionality in a district is not sufficient to justify a special education program *for that exceptionality* in that district, or if a school district does not provide a special education program *for that exceptionality*, the board shall provide a program [instruction] by contract with another county or independent district *or private organization* that maintains an approved special education program for that *exceptionality* [type child]. When a district *or private organization* undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of [their] residence *of these pupils* shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two (2) districts *or district and private organization*.

(2) The school board of the school district in which any child resides shall pay for his transportation to *and from the program* [the class] in the other school district *or to the private organization* [cost not to exceed three hundred dollars (\$300) for one (1) school year, unless]. *However, if the school board of the other district or the private organization providing the program also provides [his] transportation, [to the class, in which case] the cost of transportation shall [will] be included in the total cost [of the special education facility].*

The Committee Amendment to **HB 271** is as follows:

Amend printed copy of House Bill 271 page 1, line 11, by deleting the word "approved" and by adding after the word "program" the following: "*approved by the State Board of Education*"

line 12, by adding after the word "exceptionality" the following: "; the amount not to exceed the amount designated by the State Department of Education for a child of that particular exceptionality."

The Committee on Education reported **HB 237** and **HB 262** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Cities reported **HB 310**, **HB 520**, and **SB 105** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 310, AN ACT changing the classification of the City of Saint Regis Park in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Saint Regis Park in Jefferson County is such to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Saint Regis Park in Jefferson County is transferred from the fifth to the fourth class of cities.

HB 520, AN ACT relating to police and firemen's benefit fund in urban county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 95 is created to read as follows:

Words and phrases, wherever used in this Act, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Fund" shall mean the "Policemen's and Firemen's Retirement Fund of the _____ Urban County Government";
- (2) "Government" shall mean the governmental unit of any urban county government in the Commonwealth of Kentucky, including the governmental unit of any former urban county government which changes its form of government, class or other status;
- (3) "Department" shall mean the police department or the fire department of a government;
- (4) "Board" shall mean the board of trustees provided in this Act as the agency responsible for the direction and operation of the affairs and business of the fund. The Board shall hold title to all assets of the fund;
- (5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;
- (6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban county government, for salary or compensation, or service otherwise creditable as herein provided;
- (7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban county government;
- (8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban county government;
- (9) "Total service" shall mean prior service, membership service, and military service;
- (10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five years of operation of the fund the rate shall be three percent per annum, compounded annually;
- (11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three consecutive years of service within the total service of the member;

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full time education; and

(18) "Mayor", "Director of Finance", "Director of Personnel" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described.

Section 2. A new section of KRS Chapter 95 is created to read as follows:

There is hereby established in urban county governments, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries. The fund shall be known as the "Policemen's and Firemen's Retirement Fund of the _____ Urban County Government". In such name all of its business shall be transacted, all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

Section 3. A new section of KRS 95 is created to read as follows:

The purpose of the fund is to provide retirement annuities and disability benefits for the members of the police and fire departments who become aged or otherwise incapacitated, and widows' annuities and other benefits to the dependents of such members to the end that such members may accumulate reserves for themselves and their dependents to meet, without prejudice or hardship, the hazards of old age, disability, death, and termination of service, thereby encouraging qualified personnel to enter and remain in the service of such departments.

Section 4. A new section of KRS Chapter 95 is created to read as follows:

The following persons shall become members of the fund:

(1) All active full-time members of a department in service on the day prior to the date of establishment;

(2) All persons who become full-time members on or after the date of establishment who shall become members as a condition of employment; and

(3) All members of a department who on the date of establishment are working in a civilian or appointive capacity for the government, the Commonwealth of Kentucky, or the United States of America, while on an approved leave of absence from a department.

Section 5. A new section of KRS Chapter 95 is created to read as follows:

(1) Each person becoming a member on the date of establishment shall be entitled to full credit for all service rendered prior to such date. Each person becoming a member after the date of establishment shall be entitled to credit after such date, provided contributions are made for all such subsequent service. Total service shall include prior service and membership service.

(2) The following types of service shall be eligible for service credit:

(a) Service as a full-time member of a department of the government;

(b) Service in a civilian or other capacity in the service of the government, Commonwealth of Kentucky, or the Federal Government, while on approved leave of absence from a department, subject to maximum credit for such service of one year;

(c) Service in any branch of the armed forces of the United States during a period of national emergency while on leave of absence from a department, provided that such leave-of-absence-service shall not exceed five years, and that such member shall re-enter the service of a department of the government within a period of six months following the date of separation other than by dishonorable discharge from such service; and

(d) All service rendered in a civilian capacity as provided in subsection (3) of Section 4 of this Act.

(3) In the computation of service credit, nine months or more of service during a year shall entitle a member for one year of service; six to nine months of service shall constitute three-quarters of a year; three to six months, one-half year; less than three months, one-quarter of a year.

Section 6. A new section of KRS chapter 95 is created to read as follows:

Any member may, at his option, retire on a service retirement annuity upon or after completing at least 20 years of total service. Upon fulfillment of these terms, it is mandatory that the board shall grant the

retirement annuity upon receipt of the application of said member.

Section 7. A new section of KRS Chapter 95 is created to read as follows:

Each member shall be subject to compulsory retirement according to the rules of the government in which he is employed, provided, however, that any member able to perform his assigned duties shall not be precluded from serving at least 20 years.

Section 8. A new section of KRS Chapter 95 is created to read as follows:

The rate of retirement annuity shall be two and one-half percent of average salary, as defined in subsection (13) of Section 1 of this Act, for each year of total service up to and including thirty years, subject to a maximum of seventy-five percent of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than \$100 a month and when social security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent. Within six months after the performance of the actuarial study required by subsection (6) of Section 21 of this Act, the rate of retirement annuity of each annuitant who becomes an annuitant after the effective date hereof shall be increased by an amount determined by the said study to reflect so much of the increase in the cost of living of such annuitant from the beginning of his annuity as may be supported on an actuarially sound basis by the fund, so long as the same is published, such studies shall rely on the "All Items Index" of the United States Department of Labor's Consumer Price Indexes, but no increase in the cost of living shall be assumed to exceed two percent over the base index year in any year of the fund.

Section 9. A new section of KRS Chapter 95 is created to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to sixty percent of the member's last rate of salary. This annuity shall be payable until she dies or remarries. In addition, if minor children, under age eighteen, survive the member, the widow shall receive on account of each child, ten percent of the member's last rate of salary until each child attains age eighteen, or, in the case of a child regularly engaged in full time educational activities the age of twenty-three. The combined payments to a widow and minor children shall not exceed seventy-five percent of his final rate of salary.

(2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen or between the ages of eighteen and twenty-three who are regularly engaged in educational activities exist, each child shall be entitled to an annuity equal to fifteen percent of the member's last rate of salary until each child attains age eighteen, or, in the case of a child regularly engaged in full time educational activities the age of twenty-three, provided that the combined payments to such children shall not exceed fifty percent of the member's last rate of salary.

(3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent of the member's last rate of salary, or fifty percent to both parents.

Section 10. A new section of KRS Chapter 95 is created to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five years of total service, his widow shall receive an annuity equal to one and one-half percent of average salary for each year of total service, credited to the member, but not less than fifteen percent of average salary, subject to the following conditions:

(a) The widow had been married to the member at least six months prior to his death;

(b) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen, or, in the case of a child regularly engaged in full time educational activities the age of twenty-three.

(2) If the widow has minor children under age 18, or in the case of a child regularly engaged in full time educational activities the age of 23, the annuity to the widow shall be increased one-half on account of the first child and one-fourth on account of each additional such child, subject to a maximum combined payment to the widow and children of sixty percent of the final rate of salary.

(3) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least six months before retirement.

Section 11. A new section of KRS Chapter 95 is created to read as follows:

In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to seventy-five percent of his last rate of salary. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under Section 9 of this Act.

Section 12. A new section of KRS Chapter 95 is created to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least five years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half percent of

the average salary, as defined in subsection (13) of Section 1 of this Act, for each full year of total service, subject to a minimum payment of twenty-five percent of such average salary and a maximum payment of seventy-five percent of average salary. Payment of this annuity shall be made during disability of the member. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under Section 10 of this Act.

(2) Any annuity for non-occupational disability shall begin to accrue upon the expiration of ninety days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety days from date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

Section 13. A new section of KRS Chapter 95 is created to read as follows:

For the purpose of this Act, a member shall be considered totally and permanently disabled after the board has received written certification by at least two licensed and practicing physicians selected by the board that the member is totally and likely to be permanently disabled for the further performance of the duties of any assigned position in the service of the department. If upon consideration of the report of such physicians and such other evidence as shall have been presented to it by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant him a disability retirement annuity upon written certification that the member has been separated from the service of the government because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the government.

Section 14. A new section of KRS Chapter 95 is created to read as follows:

(1) Upon death of a member, occurring while in active service, if no widow's annuity or children's annuities are payable, the designated beneficiary of the member or his estate shall be entitled to a death benefit equal to the total contributions made by the member, without interest, or three hundred dollars, whichever is greater.

(2) Upon death of a retired member, if no widow's annuity or children's annuities shall be due and payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member to this fund to the date of retirement, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be three hundred dollars. If a widow's annuity or children's annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments to all survivors of the member, whether such termination occurs by death, remarriage or other cause.

Section 15. A new section of KRS Chapter 95 is created to read as follows:

(1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member after the date of establishment, without interest.

(2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six months after receipt of an application from a member.

(3) Any member who has received a refund shall be considered a new member upon subsequent re-employment if such person qualifies for membership under the provisions hereof. After the completion of at least five years of continuous membership service following his latest re-employment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent interest from the dates of refund to the date of repayment. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

(4) Any member who has received, or who is entitled to receive, a refund, but who within six months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions and service under his original fund.

Section 16. A new section of KRS Chapter 95 is created to read as follows:

Each active member shall contribute a sum equal to eight percent of current salary. The Director of Finance of the government is hereby authorized to deduct such amount from the salary of each active member in semi-monthly installments. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate.

Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided.

Section 17. A new section of KRS Chapter 95 is created to read as follows:

The government shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one-year term premium for the government's liability for death benefits, after applying the contributions by the active members. Such rate percent shall be fixed by the board every five years, within six months after the actuarial study required by subsection (6) of Section 21 of this Act, (actuarial survey of the fund) and shall be in effect for a period of at least five years. For the first five fiscal years of operation of the fund, the government's rate of contribution shall be at least twelve percent of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the government is located an injunction or mandamus requiring the government to comply herewith; and the members of any legislative body failing to act shall be personally liable for any funds not paid to the fund as required hereby, which remedy shall be available to any member of the fund or to any annuitant.

Section 18. A new section of KRS Chapter 95 is created to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a Board of Trustees of nine members, consisting of the Mayor, the Director of Finance, the Director of Personnel, the chiefs of the police and fire department, and two active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two years under rules adopted by the board. One of the active members representing each department shall be elected on even numbered years; and the other active member representing such department shall be elected on odd numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) It is the intention of this Act that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban county form of government shall retain their office for one year, and that the other elected member from each department shall be elected for a two year term.

Section 19. A new section of KRS Chapter 95 is created to read as follows:

(1) Subject to the foregoing provisions, there shall be held on the first Wednesday after the first Tuesday of September of each year an election among the active members for trustee of the fund.

(2) On or before August 10 preceding, nominations for candidates in the election shall be filed with the chief of the police department and the chief of the fire department. The nominations shall be in writing and shall be signed by not less than twenty-five percent of the members. Within five days after the close of nominations, the chiefs of the respective departments shall certify in writing to all districts and bureaus of the departments the names of those placed in nomination.

(3) On the first Wednesday after the first Tuesday in September beginning at the hour of 12 noon on Wednesday and continuing thereafter for a forty-eight hour period, an election shall be held under the supervision of the commanding officers of the districts and bureaus. Each member shall vote at the district or bureau of which he is a member, except those members who are not assigned to a specific district or bureau, who shall vote at the office of the Chief of Police or Chief of the Fire Department, as the case may be. At the close of voting, the commanding officer of each district or bureau, shall in the presence of the nominees or their duly authorized agents, open the ballot box and count the votes. He shall then make a certificate of the count and send the certificate with the ballots in a sealed envelope to the Mayor, who shall, on the following Wednesday, open all the certificates so received and after counting all the returns, certify the result to the board. On the third Wednesday after the first Tuesday in September the candidate or candidates receiving the most votes shall assume office.

Section 20. A new section of KRS Chapter 95 is created to read as follows:

In addition to other duties provided in this Act, the board shall:

(1) Establish and maintain an office in the facilities provided by the government for the meetings of the board and the keeping of the books, accounts, and records of the fund; hold regular meetings monthly, and such special meetings as may be deemed necessary; and keep a full record of all of its proceedings, which shall be open to inspection by the public;

(2) Provide for the installation of a system of accounts and records that will give full effect to the requirements of this Act; adopt all necessary actuarial tables to be used in the operation of the fund; and provide for the compilation of such statistical and financial data as may be required for actuarial valuations, periodic surveys, and calculations;

(3) Obtain such information from the participating members and the government as shall be necessary for the proper operation of the fund;

(4) Consider and pass upon all applications for annuities, benefits, refunds and other payments, and authorize the expenditure for such purposes, in accordance with the provisions hereof. The board shall have authority to promulgate such rules and regulations, not inconsistent with the provisions of this Act, necessary for the proper determination of all claims before it;

(5) Accept any gift, grant, or bequest of any money or property of any kind, for the purposes designated by the grantor if such purposes are specified as providing cash benefits to some or all of the members or annuitants of the fund; if no such purposes are designated, the same shall be credited to the account representing income from investments; and

(6) Have the accounts of the fund audited as of the end of each fiscal year, by a competent accountant, and submit an annual report to the government as soon as possible following the close of the year, embodying, among other things, a balance sheet showing the financial and actuarial condition of the fund, a statement of income and expenditures for the year, a statement showing changes in the asset, liability, and reserve accounts during the year, a statement of investments owned by the fund, detailed statements of investments acquired and disposed of during the year, and such other financial or statistical data as are necessary for a proper interpretation of the condition of the fund and the results of its operations. The board shall also cause to be published for distribution among the members a synopsis of such report.

Section 21. A new section of KRS Chapter 95 is created to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The Director of Finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The Director of Finance shall, within ten days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The director of law of the government shall serve as legal advisor to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the government.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six months after the establishment of an urban county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every five years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in Section 8 of this Act. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may

obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of this Act which shall not be inconsistent therewith.

Section 22. A new section of KRS Chapter 95 is created to read as follows:

The board may invest the moneys accruing to the fund, in interest bearing bonds of any county, urban county government or city of the first, second or third class in this Commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this Commonwealth. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the Director of Finance and shall be subject to the order of the board. The board may at the cost of the government employ or engage consultants to provide investment advice to aid the board in its determinations.

Section 23. A new section of KRS Chapter 95 is created to read as follows:

(1) An adequate system of accounts and records shall be established and maintained for the fund that will reflect fully the requirements of the provisions of this Act. This system shall be integrated, to the extent possible with the accounts, records, and procedures of the government to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

(2) All assets of the fund shall be credited according to the purposes for which they are held in the following designated reserve accounts:

(a) Members Contribution Reserve. The amounts contributed by the members shall be credited to this reserve, together with regular interest thereon as herein provided. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions. Upon the granting of a service retirement annuity, disability annuity, or survivors annuity or benefit, the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death payments representing member's contributions shall be charged to this reserve.

(b) Employer's Contribution Reserve. The amounts contributed by the government under the provisions hereof, for service retirement annuity, disability retirement annuity, and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivors benefit, an amount representing the excess of the actuarial value of the annuity, or benefit over the accumulated contributions of the member, shall be transferred from this reserve to the retirement reserve.

(c) Retirement Reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivors benefit, the accumulated contributions of the member and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investments shall be charged to this reserve. All payments on account of any annuity made by the fund shall be charged to this reserve. Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the government's contributions for membership service for the fiscal years next following the date of such valuation. Any deficiency in this reserve shall be removed by an increase in the amount of government's contributions for future membership service.

Section 24. A new section of KRS Chapter 95 is created to read as follows:

(1) The officers of the government designated by law to draw warrants on the government treasury, shall on request in writing by the board, draw warrants on the Director of Finance, payable to the treasurer of the board, against monies of the fund.

(2) Monies ordered paid from the fund to any person shall be paid by the treasurer only, upon warrant signed by the president of the board and countersigned by the secretary. No warrant shall be drawn except by order of the board duly entered on the record of proceedings of the board.

Section 25. A new section of KRS Chapter 95 is created to read as follows:

(1) It is the intention of this Act that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.885 inclusive, for cities of the second class becoming urban county governments, which sections shall be without force and effect, insofar as applicable to such urban county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by this Act shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect.

Section 26. A new section of KRS Chapter 95 is created to read as follows:

Each member shall, by virtue of the payment of contributions to the fund, receive a vested interest in such contributions, and in consideration of such vested interest, shall be conclusively deemed to undertake and agree to pay the same and to have the amounts deducted from his salary as herein provided.

Section 27. A new section of KRS Chapter 95 is created to read as follows:

The right to a retirement annuity, disability annuity, survivors annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

Section 28. A new section of KRS Chapter 95 is created to read as follows:

Any service retirement annuity, disability retirement annuity, or any other annuity provided herein shall be payable in equal monthly installments as life annuities, and shall not be increased, decreased, revoked, or repealed, except for error, or except where specifically otherwise provided. The cost of providing death benefits for members in receipt of retirement annuities shall not be construed as a reduction in the life annuity payable to the member. The first payment of an annuity shall be made for the fraction of a month elapsing until the end of the first month; and the last payment shall be made as of the end of the month in which death occurs.

Section 29. A new section of KRS Chapter 95 is created to read as follows:

It is the intention of this Act that the payment of the required contributions by the government shall include all allowances, annuities, benefits, and administration expenses and shall be the obligation of the government.

Section 30. A new section of KRS Chapter 95 is created to read as follows:

Any government covered by this Act, which may subsequently change its form of government or its class or other status, shall continue to be covered by this Act.

Section 31. A new section of KRS Chapter 95 is created to read as follows:

After a determination has been made on any application by the board, any interested person may, within twenty days after notice of the determination or finding of the board, apply for a rehearing with respect to any of the matters determined by the board. The application shall specify the matter of which a rehearing is sought. The board shall fix the time for the rehearing within twenty days after the same is filed with the secretary of the board, in no event to be less than sixty days from the date the application is filed unless otherwise agreed by the parties. Upon the rehearing a complete transcript shall be made of all evidence presented. The cost of such transcript shall be borne equally by the applicant for the rehearing and the board. Upon rehearing, the board may change, modify, vacate or affirm its previous order upon said application and enter such an order as it deems necessary.

Section 32. A new section of KRS Chapter 95 is created to read as follows:

(1) The order or determination of the board upon the rehearing shall be conclusive and binding, but any interested party may, within twenty days after the rendition of the order of the board, by petition appeal to the circuit court of the county in which the urban county government is located for a review of the order of the board.

(2) The petition shall state fully the grounds upon which a review is sought, assign all errors relied on and be verified by the petitioner who shall furnish a copy to the board at the time of the filing of the same. Summons shall be issued directing the board to answer within twenty days and directing the board to send the original record to the circuit clerk certifying that such record is the entire original record of the rehearing which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review. The appeal provided for herein shall not be considered effective unless the person making the appeal has paid to the board one-half of the cost of the transcript of the record of the rehearing within the period provided for making the appeal.

(3) No new nor additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this Act, and affecting the order, decision or determination appealed from, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

- (a) The board acted without or in excess of its powers;
- (b) The order, decision or determination was procured by fraud;
- (c) The order, decision or determination of the board is not in conformity with the provisions of this Act;

(d) If findings of fact are in issue the party seeking to set aside any order, decision or determination of the board shall have the burden of proof to show by clear and satisfactory evidence that the order, decision or determination is unreasonable or unlawful. If upon appeal as herein provided, the order, decision or determination of the board is reversed the party perfecting the appeal shall be refunded by the board his portion of the costs paid for the transcript of the record made on the rehearing.

(4) The board and each interested party may appear before the circuit court. The court shall enter judgment affirming, modifying or setting aside the order, decision or determination appealed from, or in its

discretion remand the cause to the board for further proceedings in conformity with the direction of the court. The court may, before judgment and upon a sufficient showing of fact, remand the cause to the Board.

Section 33. A new section of KRS Chapter 95 is created to 'read' as follows:

(1) The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The scope of review by the Court of Appeals shall include all matters subject to review by the circuit court and also errors of law arising in the circuit court and upon appeal made reviewable by the Rules of Procedure.

(2) The procedure as to appeal to the Court of Appeals shall be the same as in civil actions so far as it is applicable to and shall not conflict with the provisions of this Act.

Section 34. A new section of KRS Chapter 95 is created to read as follows:

Any person who knowingly makes any false statement, or falsifies, or permits to be falsified, any record or records of the fund established pursuant to Section 2 of this Act, in any attempt to defraud the fund, shall be fined not less than \$500 or imprisoned in the county jail for not more than twelve months, or both, and the fund shall have the right to recover any payments made under false representations.

Section 35. This Act shall become effective July 1, 1974.

SB 105, AN ACT relating to policemen's and firemen's pension funds in cities of the third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.621 is amended to read as follows:

(1) A city of the third class may adopt an ordinance creating a pension fund for firemen and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third-class city does elect to adopt KRS 95.621 to 95.629 all the provisions herein are mandatory. *The provisions of KRS 95.620 shall apply to any city of the third class which has adopted KRS 95.621 to 95.629.*

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

The Committee on Elections and Constitutional Amendments reported **HB 210**, **HB 495** with Committee Amendment attached thereto, **HB 508**, and **HB 68** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 210, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 125.210 is amended to read as follows:

(1) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two challengers *and two alternates* to be present at and witness the holding of the election in each precinct in the county. [The challengers shall be entitled to stay in the room or at the door.] *No more than two of the challengers or alternates may be in the room at the same time.* The challengers *and alternates* shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(2) Any school board candidate, independent candidate, or independent ticket at the regular election may designate not more than one challenger *and one alternate* to be present at and witness the holding of the elections in each precinct in the county. The challenger *or the alternate* shall be entitled to stay in the room or at the door. The challenger *and alternate* shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) Not later than thirty days prior to an election at which Constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes

an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the Constitutional amendment or public question is to be voted on. If more than one committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by registered mail to each committee not less than twenty days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings in the county court, and upon hearing the county judge shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five days before the election. The county board of elections shall, within two days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers, *alternates*, and inspectors at the election where any Constitutional amendment or public question is to be voted upon. If more than one amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one person for each amendment and question to serve as inspector at the election and one person for each amendment and question to serve as challenger at the election. *One alternate may be named to relieve each challenger.*

(5) The challengers, *alternates*, and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors, [and] challengers, *and alternates* at an election.

(6) Each political party is entitled to have not exceeding two challengers *and two alternates* at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 119.085 (1), of the same political party equal to twenty-five percent of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers *and alternates* in each precinct in the county. If more than two such lists are furnished, the committee or governing authority, in making appointments of challengers[,] *and alternates*, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one challenger *and one alternate* for any precinct from any one list. The list of challengers *and alternates* shall be presented to the chairman or secretary of the party committee of the county not less than seven days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four days before the date on which the primary is held. The appointment of challengers *and alternates* shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers *and alternates* shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as challengers *and alternates* at regular elections, except that the challengers *and alternates* of one political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

HB 495, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 125.005 is amended to read as follows:

(1) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(2) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(3) All primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the *last Saturday in July* [first Tuesday after the fourth Monday in May] of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

The Committee Amendment to **HB 495** is as follows:

Amend printed copy of House Bill 495 page 1, line 12, change "Saturday" to "Tuesday"

HB 508, AN ACT relating to residence requirements for public office and employment.

WHEREAS, the General Assembly desires to recognize the principle that district designations are merely conveniences in defining voting areas and have no intrinsic purpose requiring a candidate to be identified with the district as a named unit, as distinguished from being identified with the geographical area defined by district boundaries, and further desires to apply that principle to all Kentucky laws concerning residence qualifications for election or appointment to public office in situations in which the boundaries of such named units may be and are periodically altered;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 61 is created to read as follows:

No person shall be disqualified from election or appointment to any public office or position of employment, for which the law requires a term of prior residence in a district or city, solely because of alterations in city or district boundaries; and he shall be deemed to meet such residence requirement if he has resided during the period required by law in the geographic area encompassed by the boundaries of the city or district from which he is elected or appointed.

HB 68, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 123.005 is amended to read as follows:

As used in KRS 123.005, 123.051 to 123.101 and 123.991:

- (1) "Registry," means the Kentucky Registry of Election Finance.
- (2) "Election," means any primary, regular or special election to fill vacancies.
- (3) "Committee," means any combination of two (2) or more persons acting jointly, including a state or county executive committee of a political party, or any other organization or group, organized, in whole or in part, for the purpose of furthering political candidacies.
- (4) "Labor union," means any organization of any kind, or any agency or employee representation committee or plan in which employees participate and which exists for the purpose, in whole or in part of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.
- (5) "Political activist group," means three or more persons joining together to support or oppose a candidate or candidates or political issue or issues to be voted upon in any election if that person or persons receives money in excess of \$300 and expends money in behalf of a candidate or candidates or political issue or issues.
- (6) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious or educational.

Section 2. KRS 123.010 is amended to read as follows:

No corporation, and no officer or agent of a corporation on its behalf and no labor union, shall contribute, either directly or indirectly, any money, service or other thing of value towards the nomination or election of any state, county, city or district officer, or pay, promise, loan or become pecuniarily liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from a corporation with the understanding or agreement, either direct or implied, that he will contribute to any such candidate, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 3. KRS 123.020 is amended to read as follows:

- (1) No corporation organized or authorized to do business in this state and no labor union shall, by itself or by or through an officer, agent, attorney or employee, subscribe, give, procure or furnish, or afterwards reimburse or compensate in any way any person who has subscribed, given, procured or furnished, any money,

privilege, favor or other thing of value to any political or quasi-political organization, or any officer or member thereof, to be used by such organization for any purpose whatever.

(2) No officer, agent, attorney or employe of any corporation organized or authorized to do business in this state, or person acting for or representing any such corporation, *and no labor union* shall disburse, distribute, pay out or in any way handle any money, funds or other thing of value that belongs to or has been or is being furnished by any such corporation or any officer, agent, attorney or employe thereof to be used or employed in any way for the purpose of aiding, assisting or advancing the cause of any political or quasi-political organization or of any candidate for public office in any way whatever.

Section 4. KRS 123.030 is amended to read as follows:

In addition to the prohibition of certain contributions set out in KRS 123.010 and KRS 123.020, no [No] person [other than a corporation,] and no agent of such person on his behalf, shall contribute, either directly or indirectly, any money, service or other thing of value towards the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such person not common to the general public, or to supervise, regulate or control in any manner the affairs of such person, or to perform any duty in assessing the property of such person for taxation. No such person, and no agent of such person on his behalf, shall pay, promise, loan or become pecuniarily liable in any way for any money or other valuable thing on behalf of any candidate for any such office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from any such person with the understanding or agreement, either direct or implied, that he will contribute to any candidate for any such office, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 5. KRS 123.051 is amended to read as follows:

The provisions of KRS 123.005, 123.051 to 123.101 and 123.991 shall apply to all candidates running for public office, *including urban county governments*, in any primary or general election, or in any special election to fill a vacancy, except those candidates running for boards of education, county and local district offices filled by less than a countywide constituency and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 123.095 shall apply to all candidates for public office.

Section 6. KRS 123.061 is amended to read as follows:

(1) The registry shall appoint a full-time executive and such other employes as are necessary to provide the service to carry out all purposes of KRS 123.051 to 123.101, including an attorney or attorneys on a full or part-time basis.

(2) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 123.005 and 123.051 to 123.101. The registry is authorized and empowered to:

- (a) Develop prescribed forms for the making of the required reports;
- (b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting;
- (c) Develop a filing, coding and cross-indexing system;
- (d) Permit copying or photocopying of any report as requested by any person;
- (e) Preserve all reports for at least two (2) years from date of receipt;
- (f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address *and occupation*, and amount contributed by each contributor, listed alphabetically, shown to have contributed *in excess of \$100 [\$500]*;
- (g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) above;
- (h) Distribute upon request, for a nominal fee, copies of all summaries and reports;
- (i) Ascertain whether candidates, committees or others have failed to file reports or have filed defective reports, give notice to delinquents to correct or explain defections, make available for public inspection a list of such delinquents;
- (j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of documents and the attendance of witnesses;[.]

(k) *Conduct random audits of receipts and expenditures of all classes of candidates covered under this chapter. When the registry audits the records of any selected candidate who is running or has run for any office covered under this chapter, it shall also audit the records of all candidates running for that particular office in the selected local, district or state election. Candidates shall maintain their records for a period of two (2) years from the date of the general election in their respective political races.*

(3) Promptly after the final date for filing statements and reports the registry shall notify all persons who have become delinquent in filing the same, and shall make available a list of such delinquents for public inspection. The registry shall also report to the attorney general and the commonwealth's attorneys such list.

Section 7. KRS 123.065 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; Provided That it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of \$50[\$100] received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) *No candidate, nor anyone on his behalf, shall accept a cash contribution in excess of \$50, and no person may contribute more than \$1,000 to any candidate in any election nor more than \$3,000 to all candidates in any election.*

Section 8. KRS 123.071 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and with the office he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met his qualifications as a candidate shall not be complete and his filing papers shall not be accepted by the office with which he is required to file. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) *The duties of a campaign treasurer shall be to:*

(a) *Designate a depository bank for all campaign funds which bank must be insured by the Federal Deposit Insurance Corporation;*

(b) *Keep detailed and exact accounts of contributions in general and by name, address and occupation where the contribution exceeds \$100;*

(c) *Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of \$50 shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;*

(d) *Maintain all receipted bills and accounts required by this section for a period of two (2) years from the date he files his last report under KRS 123.086 (2)(a).*

(3)[(2)] A candidate may remove a campaign treasurer at any time.

(4)[(3)] In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified or registered mail appoint a successor and shall file his name and address with the registry. The candidate shall be disqualified if he fails to meet this filing requirement.

(5)[(4)] A person may serve as campaign treasurer for more than one candidate, but all reports must be made separately for each individual candidate.

(6)[(5)] The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 123.005 and 123.051 to 123.101 and those adopted by the registry.

Section 9. KRS 123.075 is amended to read as follows:

(1) Each committee organized, in whole or in part, for the purpose of furthering a political candidacy, and any political activist group whether or not in support of a candidate shall register with the registry, by filing official notice of intention at the time of organization, giving names and addresses and positions of the officers of the organization and designating the candidate or candidates it is organized to support on forms prescribed by the registry.

(2) All provisions of KRS 123.005 and 123.051 to 123.101 governing the duties and responsibilities of a candidate or campaign treasurer shall apply to a registered committee.

(3) *The chairman of a committee and the campaign treasurer shall be separate persons.*

Section 10. KRS 123.086 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, [and] address, and occupation of each person or group contributing in excess of \$100 [more than \$500], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of \$50 and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular

primary and general elections.

(2) Each campaign treasurer of a candidate or campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, [and] address, *and occupation* of each person or group contributing *in excess of \$100* [more than \$500], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, [and] address, *and occupation* of each person to whom an expenditure is made in excess of \$50, and the amount, date and purpose of each expenditure.

(a) Reports of *all* candidates [for the congress of the United States, all statewide offices, judge of the Court of Appeals, circuit judge, commonwealth's attorney, circuit court clerk, and the Kentucky general assembly] and their campaign committee shall be made:

1. On the *thirty-second* [thirtieth] day preceding an election, including all previous contributions and expenditures.

2. On the *twelfth* [tenth] day preceding the date of the election.

3. Within thirty (30) days after the election.

4. *Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.*

[(b) Reports of candidates for other offices covered under KRS 123.051 and their campaign committees shall be made:]

[1. On the tenth day preceding the date of the election.]

[2. Within thirty (30) days after the election.]

(3) In making the preceding reports, proceeds from the sale of tickets for events such as *testimonial affairs*, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. *When any individual purchase of any item enumerated above exceeds \$25, the purchaser shall be identified by name, address and occupation and the amount purchased for inspection by the registry, and when the net proceeds of a fund raising event exceeds the sum of \$1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for one year following the date of the election.* [Such sales to any individual, corporation, organization or association exceeding \$500 shall be reported, including the date of purchase, the name and address of the purchaser and the amount purchased.]

(4) All reports required by KRS 123.005 and 123.051 to 123.101 shall be open to the public for inspection, *and a duplicate copy of each report filed with the registry shall be filed with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.*

(5) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, then his obligation to file the reports required by KRS 123.005 and 123.051 to 123.101 shall cease, but he may continue to file such reports voluntarily if he so chooses. A candidate is considered unopposed if no opposing candidate is to be listed on the official ballot. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 123.005 and 123.051 to 123.101.

(6) Copies of those reports required to be filed by or on behalf of a candidate for the congress of the United States pursuant to Title III of the Federal Election Campaign Act of 1971 shall be filed with the registry on the dates prescribed in said act in lieu of the reporting requirements of this section, subject to the penalties set forth in KRS 123.991.

Section 11. KRS 123.991 is amended to read as follows:

(1) Any person who *wilfully* violates a provision of KRS 123.005 or 123.051 to 123.101 is guilty of a misdemeanor and shall be punishable by a fine not exceeding \$1,000 or by imprisonment for not more than one (1) year, or both, *and shall be disqualified from being appointed to or becoming a candidate for public office for a period of five (5) years.* Violations shall include but shall not be limited to any of the following acts or omissions;

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name;

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(2) The nomination for, or election to, an office of any candidate who violates any provisions of KRS 123.005 or 123.051 to 123.101, or whose campaign treasurer violates a provision of KRS 123.005 or 123.051 to 123.101, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry or any candidate for the office sought to be declared vacant.

(3) The attorney general, commonwealth's attorney or the registry may sue for injunctive relief to compel compliance with the provisions of KRS 123.005, 123.051 to 123.101. *The commonwealth attorney for the county in which the candidate resides shall, upon receipt of a written request from the registry, prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.*

(4) Prosecution for violation of any provision of KRS 123.005 or 123.051 to 123.101, shall not be commenced after one year has elapsed from the date of the violation, *but in the event the violator is an officeholder, the statute of limitations shall not run until one year following expiration of his current term of office.*

The Committee Substitute for **HB 68** is as follows:

HB 68, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 123.005 is amended to read as follows:

As used in KRS 123.005, 123.051 to 123.101 and 123.991:

- (1) "Registry," means the Kentucky registry of election finance.
- (2) "Election," means any primary, regular or special election to fill vacancies.
- (3) "Committee," means any combination of two (2) or more persons acting jointly, including a state or county executive committee of a political party, or any other organization or group, organized, in whole or in part, for the purpose of furthering political candidacies.
- (4) "Political action committee," means three or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of \$1,000.
- (5) "Testimonial affair," means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to, a political office in this state, designed to raise funds for any purpose not charitable, religious or educational.
- (6) "Contribution," means any:
 - (a) payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, or political committee; or
 - (b) payment by any person other than the candidate, his authorized treasurer, or political committees, of compensation for the personal services of another person which are rendered to a candidate's campaign; or
 - (c) goods, advertising, or services furnished to a candidate's campaign without charge, or at a rate which is less than the rate normally charged for such goods or services; or
 - (d) payment by any person other than the candidate, his authorized treasurer, or political committees for any goods, or services utilized in a candidate's campaign; or
 - (e) expenditure in connection with any other activity undertaken independently of the candidate's campaign made or furnished for the purpose of influencing the results of an election; or
 - (f) notwithstanding foregoing meanings of "contributions," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate.
- (7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office.

Section 2. KRS 123.051 is amended to read as follows:

The provisions of KRS 123.005, 123.051 to 123.101 and 123.991 shall apply to all candidates running for public office, *including urban county governments*, in any primary or general election, or in any special election to fill a vacancy, except those candidates running for boards of education, county and local district offices filled by less than a countywide constituency and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 123.095 shall apply to all candidates for public office.

Section 3. KRS 123.061 is amended to read as follows:

(1) The registry shall appoint a full-time executive and such other employees as are necessary to provide the service to carry out all purposes of KRS 123.051 to 123.101, including an attorney or attorneys on a full or part-time basis.

(2) The registry shall adopt such regulations, official forms and perform such duties as are necessary to implement the provisions of KRS 123.005 and 123.051 to 123.101. The registry *shall* [is authorized and empowered to]:

- (a) Develop prescribed forms for the making of the required reports;
- (b) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting;
- (c) Develop a filing, coding and cross-indexing system;
- (d) Permit copying or photocopying of any report as requested by any person;
- (e) Preserve all reports for at least *four (4)* [two (2)] years from date of receipt;
- (f) Prepare and make available for public inspection a summary of all reports grouped according to candidates and parties, containing the total receipts and expenditures, and the date, name, address *and occupation*, and amount contributed by each contributor, listed alphabetically, shown to have contributed in *excess of \$100* [\$500];
- (g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) above;
- (h) Distribute upon request, for a nominal fee, copies of all summaries and reports;
- (i) Ascertain whether candidates, committees or others have failed to file reports or have filed defective reports, give notice to delinquents to correct or explain defections, make available for public inspection a list of such delinquents;
- (j) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of documents and the attendance of witnesses;[.]
- (k) *Conduct random audits of receipts and expenditures of candidates running for city, county, urban, county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban, county government, or district office;*
- (l) *Conduct audits of receipts and expenditures of all candidates running for statewide office;*
- (m) *Candidates shall maintain their records for a period of four (4) years from the date of the general election in their respective political races.*

(3) Promptly after the final date for filing statements and reports the registry shall notify all persons who have become delinquent in filing the same, and shall make available a list of such delinquents for public inspection. The registry shall also report to the attorney general and the commonwealth's attorneys such list.

Section 4. KRS 123.065 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall be made or received, and no expenditure of money or other thing of value, shall be made or incurred, directly or indirectly, to support or defeat a candidate in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate or registered committee.

(2) The solicitation from and contributions by candidates and party executive committees to any religious, charitable, civic, eleemosynary or other causes or organizations established primarily for the public good is expressly prohibited; Provided That it shall not be construed as a violation of this section for a candidate to continue regular personal contributions to religious, civic or charitable groups, of which he is a member or to which he has been a regular contributor for more than six (6) months.

(3) Any anonymous contribution in excess of \$50 [\$100] received by a campaign treasurer or committee shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the state.

(4) *No candidate, committee, or political action committee, nor anyone on their behalf, shall accept a cash contribution in excess of \$50.*

(5) *No person may contribute more than \$2,500 to any one candidate in any one election.*

(6) *No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.*

Section 5. KRS 123.071 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and with the office he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met his qualifications as a candidate shall not be complete and his filing papers shall not be accepted by the office with which he is required to file. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) *The duties of a campaign treasurer shall be to:*

- (a) *Designate a depository bank for all campaign funds;*
- (b) *Keep detailed and exact accounts of contributions in general and by name, address and occupation where the contribution exceeds \$100;*

(c) *Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of \$50 shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;*

(d) *Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 123.086 (2) (a).*

(3)[(2)] A candidate may remove a campaign treasurer at any time.

(4)[(3)] In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified or registered mail appoint a successor and shall file his name and address with the registry. The candidate shall be disqualified if he fails to meet this filing requirement.

(5)[(4)] A person may serve as campaign treasurer for more than one candidate, but all reports must be made separately for each individual candidate.

(6)[(5)] The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 123.005 and 123.051 to 123.101 and those adopted by the registry.

Section 6. KRS 123.075 is amended to read as follows:

(1) Each committee organized, in whole or in part, for the purpose of furthering a political candidacy, *and any political action committee* shall register with the registry, by filing official notice of intention at the time of organization, giving names and addresses and positions of the officers of the organization and designating the candidate or candidates it is organized to support on forms prescribed by the registry.

(2) All provisions of KRS 123.005 and 123.051 to 123.101 governing the duties and responsibilities of a candidate or campaign treasurer shall apply to a registered committee.

(3) *The chairman of a committee and the campaign treasurer shall be separate persons.*

Section 7. KRS 123.086 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, [and] address, *and occupation* of each person or group contributing *in excess of \$100* [more than \$500], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of \$50 and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. *If an individual gives a contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report.*

(2) Each campaign treasurer of a candidate, [or] campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, [and] address, *and occupation* of each person or group contributing *in excess of \$100* [more than \$500], the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, [and] address, *and occupation* of each person to whom an expenditure is made in excess of \$50, and the amount, date and purpose of each expenditure.

(a) Reports of all candidates [for the congress of the United States, all statewide offices, judge of the Court of Appeals, circuit judge, commonwealth's attorney, circuit court clerk, and the Kentucky general assembly] and their campaign committee shall be made:

1. On the *thirty-second* [thirtieth] day preceding an election, including all previous contributions and expenditures.

2. On the *twelfth* [tenth] day preceding the date of the election.

3. Within thirty (30) days after the election.

4. *Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.*

[(b) Reports of candidates for other offices covered under KRS 123.051 and their campaign committees shall be made:]

[1. On the tenth day preceding the election.]

[2. Within thirty (30) days after the election.]

(3) In making the preceding reports, proceeds from the sale of tickets for events such as *testimonial affairs*, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. *When any individual purchase of any item enumerated above exceeds \$25, the purchaser shall be identified by name, address and occupation and the amount purchased for inspection by the registry. When the net proceeds of a fund raising event exceeds the sum of \$500, the net proceeds shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other*

sponsor for inspection by the registry for one year following the date of the event. [Such sales to any individual, corporation, organization or association exceeding \$500 shall be reported, including the date of purchase, the name and address of the purchaser and the amount purchased.]

(4) All reports required by KRS 123.005 and 123.051 to 123.101 shall be open to the public for inspection, *and a duplicate copy of each report filed with the registry shall be filed with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.*

(5) If a candidate is unopposed in a primary or general election [after the time prescribed by law for qualifying for nomination or election to the office, then his obligation] *he shall continue* to file the reports required by KRS 123.005 and 123.051 to 123.101 [shall cease, but he may continue to file such reports voluntarily if he so chooses]. A candidate is considered unopposed if no opposing candidate is to be listed on the official ballot. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 123.005 and 123.051 to 123.101.

(6) Copies of those reports required to be filed by or on behalf of a candidate for the Congress of the United States pursuant to Title III of the Federal Election Campaign Act of 1971 shall be filed with the Registry on the dates prescribed in said Act in lieu of the reporting requirements of this section, subject to the penalties set forth in KRS 123.991.

Section 8. KRS 123.991 is amended to read as follows:

(1) Any person who *wilfully* violates a provision of KRS 123.005 or 123.051 to 123.101 [is guilty of a misdemeanor and] shall be punishable by a fine not exceeding \$1,000 or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions;

- (a) Failure to make required reports or to file reports at times specified;
- (b) Making any false statement or report;
- (c) Giving money under a fictitious name;
- (d) Making any communication to support or defeat a candidate without identification of sponsorship.

(2) The nomination for, or election to, an office of any candidate who violates any provision of KRS 123.005 or 123.051 to 123.101, or whose campaign treasurer violates a provision of KRS 123.005 or 123.051 to 123.101, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, [or] any candidate for the office sought to be declared vacant, *or any qualified voter.*

(3) The attorney general, commonwealth's attorney, [or] the registry, *or any qualified voter* may sue for injunctive relief to compel compliance with the provisions of KRS 123.005, 123.051 to 123.101.

(4) *The commonwealth attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.*

(5)[(4)] Prosecution for violation of any provision of KRS 123.005 or 123.051 to 123.101, shall not be commenced after four (4) [one] years has elapsed from the date of the violation. *In the event the violator is an officeholder, the statute of limitations shall not run until one year following expiration of his current term of office.*

The Committee on Cities reported **HB 289** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 89.110 is amended to read as follows:

(1) In cities of the second class the mayor shall receive an annual salary of \$4,000, and each commissioner shall receive an annual salary of \$3,600.

(2) In cities of the third class the mayor and each commissioner shall receive an annual salary of not less than \$500 nor more than \$3,000, to be fixed in the question submitted to the voters as provided in KRS 89.030 (3), subject to change thereafter, within the above limits, by ordinance of the board of commissioners, which ordinance shall be submitted to the voters, the same as if a petition for referendum had been filed in the manner provided in KRS 89.230 and 89.240; also subject to change, within the above limits, by initiative

proceedings as provided in KRS 89.250.

(3) In cities of the fourth class the mayor, police judge and commissioners shall each receive an annual salary, for their first term under the commission form of government, in the amount fixed in the question submitted to the voters as provided in KRS 89.030 (4). Thereafter, at least sixty (60) days before the day for holding the primary election provided for by KRS 89.060, the board of commissioners shall, by ordinance, fix the salary of the mayor, police judge and commissioners to be elected at the next regular election. The salaries so fixed for each office shall not be less than the salaries then being paid for that office; the salary of the mayor shall not exceed \$4,800 [\$1,200] per annum, and the salary of the police judge and each commissioner shall not exceed \$2,400 [\$1,000] per annum. If the board of commissioners fails to fix the salaries as provided in this section, the salary of each newly elected officer shall be the same as that of his predecessor.

Calendar

HB 332, HB 386, and HB 404 with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The following members requested that their names be added as co-sponsors of bills:

Representative Benson, **HB 9**; Representative Hellard, **HB 68**; Representative Roberts, **HB 581**; Representative Dawahare, **HB 251**; Representative Romines, **HB 582**.

Representative Lewis requested that his name be withdrawn as co-sponsor of **HB 529**.

Representative Roberts requested that **HB 296** be withdrawn. Agreed.

Orders of the Day

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 330** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Benson moved the adoption of the following Floor Amendment No. 2 to **HB 330**:

Amend printed copy of House Bill 330 page 1, delete lines 13 through 16

delete "or (3)" on page one and insert "or" after (1) line 17

delete on line 19 after "offense" through line 2 on page 2

Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to **HB 330**:

Amend printed copy of House Bill 330 page 1, lines 9 through 19, delete lines 9 through 19 on page 1

delete lines 1 and 2 on page 2

On the roll call the vote was yeas 42 - Adams, Brewer, E. Brown, Clapp, Crupper, Davis, DeMarcus, Denham, Foster, Freeman, Gay, Graves, Guenther, Hancock, Hardin, Harris, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, King, Lewis, Lindsay, Little, May, McBee, McBrayer, McGill, Rattliff, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stone, Turner, Vincent, Wells, G. White, J. White. Nays 40-Bennett, Benson, Beshear, Blume, Bowles, R. Brown, Burch, Chandler, Clarke, Dawahare, Dunn, Givhan,

Hellard, Hislope, Kafoglis, Karem, Kenton, Kleier, Loudon, Mann, McBride, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Richardson, Roberts, Romines, Siemens, Stephens, Swinford, Thomas, Troop, Van Horn, Watkins, Whitfield, Wible, Yates.

The Floor Amendment No. 1 to **HB 330** was adopted.

Representative Benson moved that **HB 330** as amended be laid on the Clerk's desk. Agreed.

Representative Swinford moved that consideration of **HB 313** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 42**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute, for **HB 42**. Agreed.

Representative Bruce moved that **HB 42**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 81 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Thomas, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 4-Bowles, E. Brown, Donnermeyer, Troop.

HB 42, by way of Committee Substitute, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 42**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 93** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Overstreet moved that **HB 93** be placed upon its passage.

On the roll call the vote was yeas 88 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 1 - Paxton.

HB 93 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 93** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 103**, with Committee Amendment attached thereto, be taken from the Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Reynolds moved the adoption of the Committee Amendment No. 1 to **HB 103**. Agreed.

Representative Reynolds moved that **HB 103** as amended be placed upon its passage.

On the roll call the vote was yeas 88 - Allen, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Burch, Chandler, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays - 0.

HB 103 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 103** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 128** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Head moved that **HB 128** be placed upon its passage.

Representative Harris moved that consideration of **HB 128** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 151** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Quickert moved that **HB 151** be placed upon its passage.

On the roll call the vote was yeas 95 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays - 0.

HB 151 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 151** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 333**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 376** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kenton moved that **HB 376** be placed upon its passage.

Representative Watkins moved that **HB 376** be laid on the Clerk's desk.

On the roll call the vote was yeas 35 - Adams, Allen, Bowles, Brewer, E. Brown, R. Brown, Crupper, Davis, Foster, Freeman, Gay, Hancock, Kafoglis, Lewis, Little, Loudon, Mason, May, O'Brien, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Stewart, Stone, Troop, Turner, Vincent, Watkins, Wells, G. White, J. White. Nays-54-Arnold, Bennett, Benson, Beshear, Blume, Blythe, Burch, Chandler, Clapp, Clarke, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Givhan, Graves, Guenther, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kareem, Kenton, Kleier, Lindsay, Mann, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, Overstreet, Paxton, Priddy, Quickert, Schmidt, Sharpe, Siemens, Smith, Swinford, Thomas, Van Horn, Whitfield, Wible, Yates.

The motion that **HB 376** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 56 - Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Burch, Chandler, Clapp, Clarke, Davis, Denham, Dietz, Donnermeyer, Dunn, Givhan, Graves, Hancock, Hardin, Harris, Hellard, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kleier, Lindsay, Mann, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Overstreet, Paxton, Priddy, Quickert, Schmaedecke, Siemens, Smith, Stone, Swinford, Thomas, Van Horn, Wells, G. White, Whitfield, Wible, Yates. Nays 33 - Allen, Bowles, Brewer, E. Brown, Crupper, DeMarcus, Foster, Freeman, Gay, Guenther, Holloway, Hurst, Imes, Kidd, Lewis, Little, Loudon, May, Nett, O'Brien, Pearman, Reynolds, Richardson, Roberts, Robinson, Sales, Stephens, Stewart, Troop, Turner, Vincent, Watkins, J. White.

HB 376 was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 376** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 9** and **SB 81** have been examined and found correctly enrolled. **SB 9** and **SB 81** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch requested that he be recorded as voting "yea" on **HB 42**.

Orders of the Day

Speaker Pro Tempore Paxton presiding.

Representative Swinford moved that **HB 377** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kenton moved that **HB 377** be placed upon its passage.

On the roll call the vote was yeas 65 - Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Hancock, Hardin, Harris, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lindsay, Mann, Mason, McBee, McBrayer, McBride, McGill, Morgan, Nett, Overstreet, Paxton, Priddy, Quickert, Reynolds, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, G. White, Whitfield, Wible, Yates. Nays 22 - Allen, E. Brown, Bruce, Crupper, DeMarcus, Freeman, Guenther, Hislope, Holloway, Lewis, Little, Loudon, Maynard, O'Brien, Pearman, Rattliff, Richardson, Roberts, Stewart, Turner, Watkins, J. White.

HB 377 was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 377** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 385** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Van Horn moved that **HB 385** be placed upon its passage.

On the roll call the vote was yeas 92 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis,

Karem, Kenton, Kidd, King, Kleier, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates. Nays-0.

HB 385 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 385** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 389** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the following Floor Amendment No. 1 to **HB 389**:

Amend printed copy of House Bill 389 page 1, line 10, by striking the word "assess" and substituting therefor the word "access"

and on page 2, line 10, by striking the "s" on the word "Finances"

Agreed.

Representative Freeman moved that **HB 389** as amended be laid on the Clerk's desk.

On the roll call the vote was yeas 30 - Adams, Bowles, E. Brown, R. Brown, Bruce, Crupper, Davis, Dawahare, Denham, Freeman, Gay, Hancock, Hislope, Imes, King, Louden, Mason, McBrayer, Morgan, Pearman, Quickert, Reynolds, Robinson, Sale, Stewart, Stone, Troop, Turner, J. White, Yates. Nays 56 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Burch, Chandler, Clarke, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Harris, Head, Hellard, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Mann, May, Maynard, McBee, McBride, McGill, Nett, O'Brien, Overstreet, Paxton, Priddy, Richardson, Roberts, Romines, Schmidt, Siemens, Stephens, Swinford, Van Horn, Vincent, G. White, Whitfield, Wible.

The motion that **HB 389** as amended be laid on the Clerk's desk was rejected.

Representative Swinford moved that **HB 389** as amended be placed upon its passage.

On the roll call the vote was yeas 70 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Burch, Chandler, Clapp, Clarke, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Swinford, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 17 - Adams, Bowles, Brewer, R. Brown, Bruce, Crupper, Davis, Dawahare, Gay, Hancock, Morgan, Robinson, Stewart, Stone, Troop, Turner, J. White.

HB 389 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 389** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 413** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Schmidt moved that **HB 413** be placed upon its passage.

On the roll call vote was yeas 94 - Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler,

Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Well, J. White, Whitfield, Wible, Yates. Nays 0.

HB 413 was passed and the title agreed to.

Representative Schmidt moved that the vote by which **HB 413** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Van Horn moved that the House adjourn until 3:00 P.M., February 20, 1974.

On the roll call the vote was yeas 36 - Adams, Allen, Bowles, Brewer, E. Brown, R. Brown, Bruce, Clapp, Crupper, Dawahare, DeMarcus, Denham, Freeman, Gay, Guenther, Hancock, Hardin, Hellard, Hislope, Holloway, Hughes, King, Mason, May, McBrayer, Morgan, Pearman, Rattliff, Richardson, Robinson, Sharpe, Smith, Stewart, Van Horn, Wells, G. White. Nays 52 - Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Burch, Chandler, Dunn, Foster, Givhan, Graves, Harris, Head, Holbrook, Hopkins, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, Lewis, Lindsay, Little, Maynard, McBride, McGill, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stone, Thomas, Troop, Turner, Vincent, Watkins, Whitfield, Wible, Yates.

The motion to adjourn was rejected.

Speaker Blume presiding.

Representative Swinford moved that **HB 467** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Karem moved that **HB 467** be placed upon its passage.

Representative Van Horn moved that action on **HB 467** be postponed indefinitely.

On the roll call the vote was yeas 23 - Adams, Bruce, Burch, Crupper, Denham, Freeman, Gay, Givhan, Graves, Hughes, Hurst, Lewis, May, Maynard, Nett, Roberts, Robinson, Sale, Stewart, Stone, Van Horn, G. White, J. White. Nays 55 - Allen, Arnold, Bennett, Benson, Beshear, Blume, Blythe, E. Brown, R. Brown, Chandler, Clapp, Clarke, Davis, DeMarcus, Dunn, Foster, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holloway, Hopkins, Imes, Isler, Kafoglis, Karem, Kenton, Kleier, Lindsay, Mason, McBee, McBrayer, McGill, Morgan, O'Brien, Pearman, Paxton, Quickert, Reynolds, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Turner, Watkins, Wells, Whitfield, Wible, Yates.

The motion that action on **HB 467** be postponed indefinitely was rejected.

Representative Wible moved that **HB 467** be laid on the Clerk's desk.

On the roll call the vote was yeas 56 - Adams, Arnold, Bennett, Beshear, Blandford, Blume, Brewer, Bruce, Burch, Crupper, Davis, Denham, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hellard, Hughes, Hurst, Kafoglis, Kidd, Lewis, Little, Mann, Mason, May, Maynard, Nett, Priddy, Rattliff, Roberts, Robinson, Romines, Sale, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, G. White, J. White, Wible. Nays 43 - Allen, Benson, Blythe, Bowles, E. Brown, R. Brown, Chandler, Clapp, Clarke, DeMarcus, Gay, Guenther, Hardin, Harris, Hislope, Holbrook, Holloway, Imes, Isler, Karem, Kenton, King, Lindsay, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Reynolds, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Thomas, Turner, Wells, Whitfield, Yates.

The motion that **HB 467** be laid on the Clerk's desk was adopted.

Representative Swinford moved that **HJR 31** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Van Horn moved the adoption of **HJR 31**.

On the roll call the vote was yeas 86 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holloway, Hopkins, Hughes, Hurst, Isler Kafoglis, Karem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop Turner, Van Horn, Vincent, Watkins, Wells, J. White, Wible, Yates. Nays 0.

HJR 31 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HJR 31** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HR 38** be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

Representative McBrayer moved that the rules be suspended for introduction of and action on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 58, by Representative McBrayer: A RESOLUTION in memory of Clay Wade Bailey.

Representative Swinford moved that all members of the House be listed as co-sponsors of **HR 58**. Agreed.

Representative DeMarcus moved the adoption of the following **HR 58**:

HR 58, A RESOLUTION in memory of Clay Wade Bailey.

WHEREAS, Clay Wade Bailey, himself a monument among those there adorning, has departed these Capitol halls he loved so well; and

WHEREAS, this gentleman of letters, this maker of stories of the fabled and the humble, for 47 years did construct a living legend throughout Kentucky government, with his wit, his insight and his unfailing memory; and

WHEREAS, during all those years, not one Governor, not one member of the General Assembly nor Justice of the Court of Appeals, or any state employee from the most elevated to the least, having known Clay Wade Bailey, as each did, could forget his cheery "Hi", his constant willingness to assist, his keen political insight, his innumerable visits throughout the state offices, and his friendliness, helpfulness, cooperation and kindness; and

WHEREAS, the General Assembly of Kentucky has lost the most devoted of its followers, one who was ever mindful of its accomplishments, its operation and of its greater and lesser moments; and

WHEREAS, from the Little Sandy to the mighty Ohio his memory will be enshrined in print and in steel, in the KENTUCKY POST and in the Clay Wade Bailey Bridge, and most notably in the hearts and minds of those who now will miss him so sorely; and

WHEREAS, it will behoove all those who now serve, however temporarily, in this General Assembly, and those to follow in such service, to take due note of the memory of Clay Wade Bailey;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Tuesday, February 19, 1974, it does so in tribute, in honor and in loving memory of Clay Wade Bailey.

Section 2. That the Legislative Research Commission be and it hereby is directed to cause the design and placement of a suitable plaque in memory of Clay Wade Bailey, to be affixed to the desk he used in covering his many sessions of this House of Representatives.

Section 3. That the Clerk is hereby directed to transmit a copy of this resolution to Mr. Logan Bailey.

Agreed.

Announcements (continued)

The following members filed Floor Amendments: Representative Graves, Floor Amendment No. 3 to **HB 21**; Representative DeMarcus, Floor Amendment No. 1 to **HB 386**; Representative Paxton, Floor Amendment No. 1 to **HB 313**; Representative Givhan, Floor Amendment No. 1 to **HB 102**; Representative Givhan, Floor Amendment No. 1 to **HB 94**; Representative Hellard, Floor Amendment No. 1 to **HB 251**; Representative Lindsay, Floor Amendment No. 5 to **HB 50**; Representative Lindsay, Floor Amendment No. 3 to **HB 9**; and Representative Swinford, Floor Amendment No. 3 to **HB 391**.

Representative Clarke announced hearing on Public Higher Education at 9:00 A.M., February 20, 1974.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 616, by Representatives Sharpe and Richardson: AN ACT relating to cities.

HB 617, by Representative Imes: AN ACT relating to motion pictures.

HB 618, by Representative Wible: AN ACT relating to workmen's compensation.

HB 619, by Representative Kafoglis: AN ACT relating to establishing the licensing of marriage and family counselors.

HB 620, by Representatives Siemens, Benson, Brewer, Burch, Clapp, Donnermeyer, Dunn, Hancock, Holloway, King, Morgan, Priddy, Smith, Swinford, and Yates: AN ACT relating to plumbers and plumbing.

HB 621, by Representatives Holbrook and McBrayer: AN ACT relating to the compensation of county officers and employees.

HR 57, by Representative Wible: A RESOLUTION honoring the Honorable Elmer L. Brown.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Public Utilities and Transportation: **HB 528**.

Report of Committees

The Committee on Cities reported **HB 125**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 125, AN ACT relating to rental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 383 is created to read as follows:

This Act shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

Section 2. A new section of KRS Chapter 383 is created to read as follows:

(1) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this Act are:

(a) The legislature hereby finds that a significant proportion of the rental housing in this state is substandard in structure, equipment, sanitation, and maintenance; that the condition of this housing has had and will continue to have, unless corrected, a deleterious effect on the residents of this housing; that poorly maintained and over-crowded housing contributes to the development and spread of disease, crime, infant mortality, juvenile delinquency, broken homes, and other physical, social, and psychological problems, and constitutes a menace to the health, safety, morals and welfare of the residents of this state; that these conditions have necessitated excessive and disproportionate expenditures of public funds for crime prevention and punishment, for public health and safety, and for other public services and facilities, and have impaired the efficient and economic provisions of government services by municipalities and the state. The legislature further finds that these conditions result in part from the often unequal bargaining power of landlords and tenants as well as from an ill-suited common law of landlord and tenant in which leases are interpreted as grants of the right of possession rather than mutual and dependent covenants; that this common law, which evolved in an agricultural setting, is inappropriate when applied to modern residential property; that in order to facilitate fair and equitable arrangements, to foster the development of housing which will meet the minimum standards of the present day, and to promote the health, safety, morals, and welfare of the people, it is necessary and appropriate that the state specify certain minimum rights and remedies, obligations and prohibitions, for landlords and tenants of certain kinds of residential property.

(b) To encourage landlords and tenants to maintain and improve the quality of housing; and

(c) To make uniform the law with respect to the subject of this Act among those states which enact it.

Section 3. A new section of KRS Chapter 383 is created to read as follows:

Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

Section 4. A new section of KRS Chapter 383 is created to read as follows:

This Act being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

Section 5. A new section of KRS Chapter 383 is created to read as follows:

(1) The remedies provided by this Act shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Section 6. A new section of KRS Chapter 383 is created to read as follows:

A claim or right arising under this Act or on a rental agreement, if disputed in good faith, may be settled by agreement.

Section 7. A new section of KRS Chapter 383 is created to read as follows:

This Act applies to, regulates, and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

Section 8. A new section of KRS Chapter 383 is created to read as follows:

Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious, or similar service.

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

(3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

(4) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.

(5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

Section 9. A new section of KRS Chapter 383 is created to read as follows:

(1) The county courts of this state may exercise jurisdiction over any landlord with respect to any conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this Act, or engages in a transaction subject to this Act, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

Section 10. A new section of KRS Chapter 383 is created to read as follows:

Subject to additional definitions contained in subsequent Articles of this Act which apply to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act

(1) "Action" includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means the owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by Section 18 of this Act.

(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(7) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) "Person" includes an individual or organization.

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) "Rent" means all payments to be made to the landlord under the rental agreement.

(11) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under Section 23 of this Act embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(12) "Roomer" or "boarder" means a tenant occupying a dwelling unit

(a) Which lacks at least one major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove, and

(b) In a building where one or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one or more other dwelling units, and

(c) In a building in which the landlord resides.

(13) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(14) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

Section 11. A new section of KRS Chapter 383 is created to read as follows:

Every duty under this Act and every act which must be performed as a condition precedent to the exercise of a right or remedy under this Act imposes an obligation of good faith in its performance or enforcement.

Section 12. A new section of KRS Chapter 383 is created to read as follows:

(1) If the court, as a matter of law, finds

(a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(b) A settlement in which a party waives or agrees to forego a claim or right under this Act or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

Section 13. A new section of KRS Chapter 383 is created to read as follows:

(1) A person has notice of a fact if

(a) He has actual knowledge of it,

(b) He has received a notice or notification of it, or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

(2) A person knows or has knowledge of a fact if he has actual knowledge of it.

(3) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when

(a) It comes to his attention, or

(b) In the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communications, or mailed by certified mail to him at his place of business or at any place held out by him as the place for receipt of any communication.

(c) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(4) Notice, knowledge or a notice or notification received by an organization if effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

Section 14. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this Act or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(2) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(3) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

Section 15. A new section of KRS Chapter 383 is created to read as follows:

(1) A rental agreement may not provide that the tenant:

(a) Agrees to waive or forego rights or remedies under this Act;

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement;

(c) Agrees to pay the landlord's attorney's fees; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(2) A provision prohibited by subsection (1) included in rental agreement is unenforceable.

Section 16. A new section of KRS Chapter 383 is created to read as follows:

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with Section 20(1) of this Act.

Section 17. A new section of KRS Chapter 383 is created to read as follows:

(1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U. S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. This listing shall be sworn to by the landlord or his agent. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy.

(3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. This listing shall be sworn to by the landlord or his agent. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing.

(4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

(5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in circuit, quarterly, justice or police court as the jurisdiction of the court allows. If the court finds that the landlord wrongfully refused to refund any portion of the deposit, the tenant shall be entitled to judgment in the amount not refunded plus reasonable attorney's fees and court costs. If the court finds the failure to refund was willful, the amount of the judgment shall be equal to three times the amount not refunded or \$500, whichever is greater, plus reasonable attorney's fees and court costs.

(6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty days, remove the deposit from the account and apply any such excess to the debt owing.

(7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant.

Section 18. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) the person authorized to manage the premises; and

(b) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.

(3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord for:

(a) service of process and receiving and receipting for notices and demands, and

(b) performing the obligations of the landlord under this Act and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

Section 19. A new section of KRS Chapter 383 is created to read as follows:

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and Section 20 of this Act. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in Section 40(3) of this Act.

Section 20. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord shall:

(a) comply with the requirements of applicable building and housing codes materially affecting health and safety;

(b) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) keep all common areas of the premises in a clean and safe condition;

(d) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him; and

(e) supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(2) If the duty imposed by paragraph (a) of subsection (1) is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (a) of subsection (1).

(3) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraph (e) of subsection (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) The landlord and tenant of any dwelling unit other than a single family residency may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a) of this section; and

(c) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

(5) The landlord may not treat performance of the separate agreement described in subsection (4) as a condition to any obligation or performance of any rental agreement.

Section 21. A new section of KRS Chapter 383 is created to read as follows:

(1) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the conveyance.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his management.

Section 22. A new section of KRS Chapter 383 is created to read as follows:

A tenant shall:

(1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(2) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(3) dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(4) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;

(6) not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

(7) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

Section 23. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all tenants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

Section 24. A new section of KRS Chapter 383 is created to read as follows:

(1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

(a) pursuant to court order;

(b) as permitted by Sections 34 and 35(2) of this Act; or

(c) unless the tenant has abandoned or surrendered the premises.

Section 25. A new section of KRS Chapter 383 is created to read as follows:

Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven days no later than the first day of the extended absence.

Section 26. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this Act, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with Section 20 of this Act materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(b) If substantially the same act or omission which constituted a prior noncompliance covered by subsection (1) of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least fourteen days written notice specifying the breach and the date of termination of the rental agreement.

(c) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(2) Except as provided in this Act, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement of Section 20 of this Act. If the landlord's noncompliance is willful the tenant may recover reasonable attorney's fees.

(3) The remedy provided in subsection (2) is in addition to any right of the tenant arising under Section 26(1) of this Act.

(4) If the rental agreement is terminated, the landlord shall return all prepaid rent.

Section 27. A new section of KRS Chapter 383 is created to read as follows:

(1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in Section 19 of this Act, rent abates until possession is delivered and the tenant may:

(a) terminate the rental agreement upon at least five days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(b) demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him.

(2) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three months' periodic rent of threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

Section 28. A new section of KRS Chapter 383 is created to read as follows:

(1) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with Section 20 of this Act and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than \$100, or an amount equal to one-half of the monthly rent, whichever amount is greater, the tenant may recover damages for the breach under Section 26(2) of this Act or may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord fails to comply within fourteen days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

(2) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 29. A new section of KRS Chapter 383 is created to read as follows:

(1) If, contrary to the rental agreement of Section 20 of this Act, the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may:

(a) procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) In addition to a remedy provided in paragraph (c) of subsection (1) the tenant may recover reasonable attorney's fees.

(3) If the tenant proceeds under this section, he may not proceed under Section 26 or Section 28 of this Act as to that breach.

(4) Rights of the tenant under this section do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 30. A new section of KRS Chapter 383 is created to read as follows:

(1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental agreement of this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(2) In an action for rent when the tenant is not in possession, he may counterclaim as provided in subsection (1) but is not required to pay any rent into court.

Section 31. A new section of KRS Chapter 383 is created to read as follows:

(1) If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(a) immediately vacate the premises and notify the landlord in writing within fourteen days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(b) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(2) If the rental agreement is terminated under provision of this section the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

Section 32. A new section of KRS Chapter 383 is created to read as follows:

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three months periodic rent or threefold the actual damages sustained by him, whichever is greater, and a reasonable attorney's fee. If the rental agreement is terminated, the landlord shall return all prepaid rent.

Section 33. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with Section 22 or 23 of this Act, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen days after receipt of the notice. If the breach is not remedied in fifteen days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) Except as provided in this Act, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or Section 22 or 23 of this Act. If the tenant's noncompliance is willful the landlord may recover reasonable attorney's fees.

Section 34. A new section of KRS Chapter 383 is created to read as follows:

If there is noncompliance by the tenant with Section 22 or 23 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Section 35. A new section of KRS Chapter 383 is created to read as follows:

(1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in Section 25 of this Act and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(2) During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary.

(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

Section 36. A new section of KRS Chapter 383 is created to read as follows:

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Section 37. A new section of KRS Chapter 383 is created to read as follows:

(1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before the effective date of this Act.

(2) Distraint for rent is abolished.

Section 38. A new section of KRS Chapter 383 is created to read as follows:

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in Section 33(3) of this Act.

Section 39. A new section of KRS Chapter 383 is created to read as follows:

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

Section 40. A new section of KRS Chapter 383 is created to read as follows:

(1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days before the periodic rental date specified in the notice.

(3) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, Section 14(3) of this Act applies.

Section 41. A new section of KRS Chapter 383 is created to read as follows:

(1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fee.

(2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages not less than an amount equal to one month's rent and reasonable attorney's fees.

Section 42. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(a) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

(b) the tenant has complained to the landlord of a violation under Section 20 of this Act;

(c) the tenant has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in Section 32 of this Act and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under Section 26(2) of this Act.

Section 43. A new section of KRS Chapter 383 is created to read as follows:

Transactions entered into before the effective date of this Act, and not extended or renewed on and after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this Act as though the repeal or amendment had not occurred.

Section 44. A new section of KRS Chapter 383 is created to read as follows:

This Act shall become effective on September 1, 1974. It applies to rental agreements entered into or extended or renewed on and after that date.

Section 45. KRS 383.140 and 383.150 are repealed.

The Committee Substitute for **HB 125** is, as follows:

HB 125, AN ACT relating to rental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 383 is created to read as follows:

This Act shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

Section 2. A new section of KRS Chapter 383 is created to read as follows:

(1) This Act shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of this Act are:

(a) The legislature hereby finds that a significant proportion of the rental housing in this state is substandard in structure, equipment, sanitation, and maintenance; that the condition of this housing has had and will continue to have, unless corrected, a deleterious effect on the residents of this housing; that poorly maintained and over-crowded housing contributes to the development and spread of disease, crime, infant mortality, juvenile delinquency, broken homes, and other physical, social, and psychological problems, and constitutes a menace to the health, safety, morals and welfare of the residents of this state; that these conditions have necessitated excessive and disproportionate expenditures of public funds for crime prevention and punishment, for public health and safety, and for other public services and facilities, and have impaired the efficient and economic provisions of government services by municipalities and the state. The legislature further finds that these conditions result in part from the often unequal bargaining power of landlords and tenants as well as from an ill-suited common law of landlord and tenant in which leases are interpreted as grants of the right of possession rather than mutual and dependent covenants; that this common law, which evolved in an agricultural setting, is inappropriate when applied to modern residential property; that in order to facilitate fair and equitable arrangements, to foster the development of housing which will meet the minimum standards of the present day, and to promote the health, safety, morals, and welfare of the people, it is necessary and appropriate that the state specify certain minimum rights and remedies, obligations and prohibitions, for landlords and tenants of certain kinds of residential property.

- (b) To encourage landlords and tenants to maintain and improve the quality of housing; and
- (c) To make uniform the law with respect to the subject of this Act among those states which enact it.

Section 3. A new section of KRS Chapter 383 is created to read as follows:

Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

Section 4. A new section of KRS Chapter 383 is created to read as follows:

This Act being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

Section 5. A new section of KRS Chapter 383 is created to read as follows:

(1) The remedies provided by this Act shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Section 6. A new section of KRS Chapter 383 is created to read as follows:

A claim or right arising under this Act or on a rental agreement, if disputed in good faith, may be settled by agreement.

Section 7. A new section of KRS Chapter 383 is created to read as follows:

This Act applies to, regulates, and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

Section 8. A new section of KRS Chapter 383 is created to read as follows:

Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious, or similar service.

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

(3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

(4) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.

(5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in and about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

Section 9. A new section of KRS Chapter 383 is created to read as follows:

(1) The Quarterly Courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this Act, or engages in a transaction subject to this Act, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

Section 10. A new section of KRS Chapter 383 is created to read as follows:

Subject to additional definitions contained in subsequent Articles of this Act which apply to specific Articles or Parts thereof, and unless the context otherwise requires, in this Act

(1) "Action" includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means the owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by Section 18 of this Act.

(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(7) "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) "Person" includes an individual or organization.

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) "Rent" means all payments except a security deposit as defined in this section to be made to the landlord under the rental agreement.

(11) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under Section 23 of this Act embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(12) "Roomer" or "boarder" means a tenant occupying a dwelling unit

(a) Which lacks at least one major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove, and

(b) In a building where one or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one or more other dwelling units, and

(c) In a building in which the landlord resides.

(13) Security deposit means an escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear.

(14) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

(16) "Unconscionable" means an act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons.

(17) Willful means with deliberate intention, not accidentally or inadvertently, and done according to a purpose.

Section 11. A new section of KRS Chapter 383 is created to read as follows:

Every duty under this Act and every act which must be performed as a condition precedent to the exercise of a right or remedy under this Act imposes an obligation of good faith in its performance or enforcement.

Section 12. A new section of KRS Chapter 383 is created to read as follows:

(1) If the court, as a matter of law, finds

(a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(b) A settlement in which a party waives or agrees to forego a claim or right under this Act or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

Section 13. A new section of KRS Chapter 383 is created to read as follows:

(1) A person has notice of a fact if

(a) He has actual knowledge of it,
 (b) He has received a notice or notification of it, or
 (c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

(2) A person knows or has knowledge of a fact if he has actual knowledge of it.

(3) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when

(a) It comes to his attention, or

(b) In the case of the landlord, it is delivered in writing at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communications, or mailed by certified mail to him at his place of business or at any place held out by him as the place for receipt of any communication.

(c) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(4) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

Section 14. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by this Act or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(2) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(3) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

Section 15. A new section of KRS Chapter 383 is created to read as follows:

(1) A rental agreement may not provide that the tenant:

(a) Agrees to waive or forego rights or remedies under this Act;

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement;

(c) Agrees to pay the landlord's attorney's fees; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(2) A provision prohibited by subsection (1) included in rental agreement is unenforceable.

Section 16. A new section of KRS Chapter 383 is created to read as follows:

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with Section 20(1) of this Act.

Section 17. A new section of KRS Chapter 383 is created to read as follows:

(1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U. S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The Tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

(5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in circuit or quarterly court of competent jurisdiction of this state. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of paragraph (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with paragraph (3) of this section, the tenant shall not be entitled to recover any damages under this section.

(6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty days, remove the deposit from the account and apply any such excess to the debt owing.

(7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

Section 18. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) the person authorized to manage the premises; and

(b) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.

(3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord for:

(a) service of process and receiving and receipting for notices and demands, and

(b) performing the obligations of the landlord under this Act and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

Section 19. A new section of KRS Chapter 383 is created to read as follows:

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and Section 20 of this Act. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in Section 40(3) of this Act.

Section 20. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord shall:

(a) comply with the requirements of applicable building and housing codes materially affecting health and safety;

(b) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) keep all common areas of the premises in a clean and safe condition;

(d) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him; and

(e) supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(2) If the duty imposed by paragraph (a) of subsection (1) is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (a) of subsection (1).

(3) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraph (e) of subsection (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) The landlord and tenant of any dwelling unit other than a single family residency may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

- (b) the work is not necessary to cure noncompliance with subsection (1)(a) of this section; and
- (c) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

Section 21. A new section of KRS Chapter 383 is created to read as follows:

(1) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the conveyance.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his management.

Section 22. A new section of KRS Chapter 383 is created to read as follows:

A tenant shall:

- (1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
- (2) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;
- (3) dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;
- (4) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- (5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;
- (6) not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and
- (7) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

Section 23. A new section of KRS Chapter 383 is created to read as follows:

(1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) it is reasonably related to the purpose for which it is adopted;

(c) it applies to all tenants in the premises in a fair manner;

(d) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) it is not for the purpose of evading the obligations of the landlord; and

(f) the tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

Section 24. A new section of KRS Chapter 383 is created to read as follows:

(1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

(a) pursuant to court order;

(b) as permitted by Sections 34 and 35(2) of this Act; or

(c) unless the tenant has abandoned or surrendered the premises.

Section 25. A new section of KRS Chapter 383 is created to read as follows:

Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven days no later than the first day of the extended absence.

Section 26. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this Act, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with Section 20 of this Act materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that

the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(b) If substantially the same act or omission which constituted a prior noncompliance covered by subsection (1) of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least fourteen days written notice specifying the breach and the date of termination of the rental agreement.

(c) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(2) Except as provided in this Act, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement of Section 20 of this Act.

(3) The remedy provided in subsection (2) is in addition to any right of the tenant arising under Section 26(1) of this Act.

(4) If the rental agreement is terminated, the landlord shall return all prepaid rent.

Section 27. A new section of KRS Chapter 383 is created to read as follows:

(1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in Section 19 of this Act, rent abates until possession is delivered and the tenant may:

(a) terminate the rental agreement upon at least five days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(b) demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him.

(2) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three months' periodic rent of threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

Section 28. A new section of KRS Chapter 383 is created to read as follows:

(1) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with Section 20 of this Act and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than \$100, or an amount equal to one-half of the monthly rent, whichever amount is greater, the tenant may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord willfully fails to comply within fourteen days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement for the work actually done and for which the tenant has paid in full, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

(2) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 29. A new section of KRS Chapter 383 is created to read as follows:

(1) If, contrary to the rental agreement of Section 20 of this Act, the landlord willfully fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may:

(a) procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) In addition to a remedy provided in paragraph (c) of subsection (1) the tenant may recover reasonable attorney's fees.

(3) If the tenant proceeds under this section, he may not proceed under Section 26 or Section 28 of this Act as to that breach.

(4) Rights of the tenant under this section do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 30. A new section of KRS Chapter 383 is created to read as follows:

(1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental

agreement of this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(2) In an action for rent when the tenant is not in possession, he may counterclaim as provided in subsection (1) but is not required to pay any rent into court.

Section 31. A new section of KRS Chapter 383 is created to read as follows:

(1) If the dwelling unit or premises are damaged or destroyed by fire or casualty or so injured by the elements, act of God, or other cause to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

(a) immediately vacate the premises and notify the landlord in writing within fourteen days thereafter of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(b) if continued occupancy is lawful, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(2) If the rental agreement is terminated under provision of this section the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

Section 32. A new section of KRS Chapter 383 is created to read as follows:

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three months periodic rent and a reasonable attorney's fee. If the rental agreement is terminated, the landlord shall return all prepaid rent.

Section 33. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with Section 22 or 23 of this Act, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen days after receipt of the notice. If the breach is not remedied in fifteen days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) Except as provided in this Act, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or Section 22 or 23 of this Act. If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

Section 34. A new section of KRS Chapter 383 is created to read as follows:

If there is noncompliance by the tenant with Section 22 or 23 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Section 35. A new section of KRS Chapter 383 is created to read as follows:

(1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in Section 25 of this Act and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(2) During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary.

(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to

rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

Section 36. A new section of KRS Chapter 383 is created to read as follows:

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Section 37. A new section of KRS Chapter 383 is created to read as follows:

(1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before the effective date of this Act.

(2) Distraint for rent is abolished.

Section 38. A new section of KRS Chapter 383 is created to read as follows:

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in Section 33(3) of this Act.

Section 39. A new section of KRS Chapter 383 is created to read as follows:

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

Section 40. A new section of KRS Chapter 383 is created to read as follows:

(1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days before the periodic rental date specified in the notice.

(3) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten (10) days before the termination date specified in the notice, except that if the tenant fails to pay rent within ten days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.

(4) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, Section 14(3) of this Act applies.

Section 41. A new section of KRS Chapter 383 is created to read as follows:

(1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fee.

(2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney's fees.

Section 42. A new section of KRS Chapter 383 is created to read as follows:

(1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(a) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

(b) the tenant has complained to the landlord of a violation under Section 20 of this Act;

(c) the tenant has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in Section 32 of this Act and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:

(a) the violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;

(b) the tenant is in default in rent; or

(c) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under Section 26(2) of this Act.

Section 43. A new section of KRS Chapter 383 is created to read as follows:

Transactions entered into before the effective date of this Act, and not extended or renewed on and after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this Act as though the repeal or amendment had not occurred.

Section 44. A new section of KRS Chapter 383 is created to read as follows:

This Act shall become effective on September 1, 1974. It applies to rental agreements entered into or extended or renewed on and after that date.

Section 45. KRS 383.140 and 383.150 are repealed.

Announcements (continued)

The following meetings were announced:

Special meetings of Business Organizations and Professions, Thursday, February 21, 1974, Room 305, 12 noon.

Highways and Traffic Safety meeting changed from 9:00 to 9:45 A.M., Thursday, February 21, 1974.

Regular meeting, Public Utilities and Transportation, 12:00, Room 305A.

The Speaker announced all committee chairmen to meet in Speaker's office at 2:00 P.M., February 20, 1974.

The Speaker appointed the following members to represent the House of Representatives at the funeral of Clay Wade Bailey: Representatives Isler, Morgan, Lewis, DeMarcus, Schmidt, Blythe, and Blume.

Representative R. Brown moved that a copy of **HR 58** be sent to the Elliott County Courthouse. Agreed.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 P.M., Wednesday, February 20, 1974.

On the roll call the vote was yeas 73 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Head, Hellard, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Whitfield, Wible. Nays 0.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 20, 1974
THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Robert J. Laughlin, First Presbyterian Church, Frankfort.

The roll was called. All present except Representative Hinkle.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representative Hinkle.

Representative Hughes moved that the reading of the Journal of February 19, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 622, by Representative Paxton: AN ACT relating to workmen's compensation.

HB 623, by Representatives Gay and Kleier: AN ACT relating to the office of county surveyor.

HB 624, by Representatives Hardin, R. Brown, Dawahare, Hislope, Sharpe, Smith, Turner, and G. White: AN ACT relating to unemployment compensation.

HB 625, by Representatives Kafoglis, Kidd, Adams, E. Brown, R. Brown, Clarke, Denham, Freeman, Gay, Givhan, Hancock, Hardin, Hellard, Hurst, Kareem, Overstreet, Pearman, Paxton, Richardson, Sale, Sharpe, Stone, Thomas, Van Horn, G. White, and Wible: AN ACT relating to the Boards of Regents of State Colleges and Universities.

HB 626, by Representatives Kafoglis, Adams, Dawahare, Gay, Kidd, Reynolds, Roberts, Turner and Vincent: AN ACT relating to free textbooks.

HB 627, by Representative McBride: AN ACT relating to planning and zoning.

HB 628, by Representatives Troop and Hellard: AN ACT relating to oil and gas.

HB 629, by Representative Denham: AN ACT relating to the designation of the official state tree of the Commonwealth of Kentucky.

HB 630, by Representatives Romines, Chandler, Dietz, Foster, Isler, King, Loudon and Sale: AN ACT relating to compensation of state employees.

HB 631, by Representative Lewis: AN ACT relating to the operation of motor vehicles.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 612, HB 610.**

Appropriations and Revenue: **HB 591, HB 584.**

Banking and Insurance: **HB 609.**

Business Organizations and Professions: **HB 619, HB 617, HB 599, SB 117, SB 137.**

Cities: **HB 606, HB 605, HB 601, HB 600.**

Counties and Special Districts: **HB 621, HB 607, HB 586.**

Education: **HB 615, HB 611, HB 598, HB 597.**

Health and Welfare: **HB 608, HB 587, HB 588.**

Highways and Traffic Safety: **HB 613, HB 595, HB 593.**

Judiciary: **HB 616, HB 596, HB 592, HB 590, HB 589, HB 585, SB 111.**

Labor and Industry: **HB 620, HB 618, HB 614, HB 594, SB 124.**

Public Utilities and Transportation: **HB 604.**

State Government: **HR 57, HR 56, HB 603, HB 602.**

Senate Message

Announcing passage of **SB 112, SB 119, SB 128, SB 158, HB 7, HB 72** with Amendment, and **HB 108.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **SB 51, SB 126, HB 180, HB 506, HB 507.**

Banking and Insurance: **HB 259, HB 571, HB 578.**

Counties and Special Districts: **SB 68.**

Highways and Traffic Safety: **HB 510, HB 523, HB 524, HB 534, HB 547, HB 551, HB 557, HB 563, HB 575, HB 580, SB 37.**

Business Organizations and Professions: **HB 341.**

Agriculture and Natural Resources: **HB 96, HB 478, HB 441, HB 462, SB 29, HR 2.**

Highways and Traffic Safety: Withdrew **HB 349** from consideration.

Report of Committees

The Committee on Rules reported **HB 50** with Committee Amendment attached thereto, **HB 149** with Committee Amendment attached thereto, **HB 167, HB 268, HB 421, HB 422, HB 514** with Committee Substitute attached thereto, **HR 30, HB 386, HB 404** with Committee Substitute attached thereto, **HR 54,** and **HR 56** have been posted for passage in Orders of the Day, February 21, 1974.

The Committee on Rules reported **HB 133** with Committee Amendment attached thereto has been recommitted to the Committee on Judiciary for study of legal implications in view of passage of **HB 184**.

The Committee on Rules reported **HR 26**, with Committee Substitute attached thereto, has been recommitted to the Committee on Judiciary for study of legal implications in view of passage of **HB 184**.

The Committee on Counties and Special Districts reported **HB 395**, **HB 485** with Committee Amendment attached thereto, **HB 503** with Committee Amendment attached thereto, and **HB 481** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 395, AN ACT relating to commissioners of water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) If a district lies wholly within a single county, or operates as a single county district as provided in paragraph (c) of this subsection, the board of commissioners shall consist of three (3) residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge *with the approval of the fiscal court*. Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court. Commissioners serving under appointments June 16, 1966 shall continue to serve until the end of their respective terms.

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges *with the approval of the fiscal courts* of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges *with the approval of the fiscal courts*, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, it may operate the distribution system so acquired, provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition of the distribution system. If less than twenty-five per cent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(3) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county court, conditioned on the faithful performance of the duties of his position.

(4) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars (\$3600), which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judge *with the approval of the fiscal court*; in multi-county districts it shall be fixed by the agreement between the county judges *with the approval of their fiscal courts*. In fixing and approving the salary of the commissioners, the county judge and the fiscal court shall take into consideration the financial condition of the district and its ability to meet its obligations as they mature.

HB 485, AN ACT relating to tourist and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83.340 is amended to read as follows:

(1) For the purpose of promoting convention and tourist activity in counties containing cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish tourist and convention commissions.

(2) For the purpose of promoting recreational, convention and tourist activity in counties containing cities other than cities of the first class, such counties and the cities located therein, either jointly or by separate action, are authorized to establish recreational, tourist and convention commissions.

(3) *For the purpose of promoting convention and tourist activity in two or more counties, such counties may jointly establish recreational, tourist and convention commissions.*

Section 2. KRS 83.345 is amended to read as follows:

(1) The commission *established pursuant to subsections (1) and (2) of this act* shall be composed of seven (7) members to be appointed by the mayor of the largest city in the county and the county judge, jointly, in the following manner:

(a) Two (2) commissioners from a list submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list submitted by it.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations.

(d) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county.

(e) One (1) commissioner by the mayor of the largest city in the county.

(f) One (1) commissioner by the county judge.

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the mayor and county judge shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of four (4) years and three (3) commissioners for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 83.340 to 83.350. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; Provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor and the county judge.

Section 3. A new section of KRS Chapter 83 is created to read as follows:

(1) The commission established pursuant to subsection (3) of Section 1 of this act shall be composed of five (5) members from each county to be appointed by the county judge in the following manner:

(a) One (1) commissioner from a list submitted by the local restaurant association or associations;

(b) One (1) commissioner from a list submitted by the local chamber of commerce;

(c) One (1) commissioner by the county judge; and

(d) Two (2) commissioners from a list submitted by the local hotel and motel association or associations.

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and one (1) commissioner for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of this act. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; Provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the county judge of each county.

Section 4. KRS 83.350 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three per cent (3%) of the rent for every occupancy of a suite, room or rooms, charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns or like or similar accommodations businesses. Provision shall be made for the collection of the tax and the enforcement of the tax measure enacted.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 83.340. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city *which establishes a commission pursuant to subsections (1) or (2) of this act* is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 83.340 to 83.350, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS chapter 58.

(5) *A commission established pursuant to subsection (3) of Section 1 of this act is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of this act, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.*

The Committee Amendment to **HB 485** is as follows:

Amend printed copy of House Bill 485 page 2, line 2 by adding "*of Section 1*" after "(2)";

and on page 6, line 22, by adding "*of Section 1*" after "(2)".

HB 503, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license for operation of a motor vehicle *or a non-driver identification card* shall apply in person to the circuit court clerk of the county in which he resides and make application upon a form furnished by the department. The application shall contain the full name and signature, date of birth, sex, and present resident address of the applicant and briefly describe him. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) *The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of Section 3 of this Act.*

(3) [(2)] Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) [(3)] The clerk *may* [shall], after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) [(4)] Every person seeking a license for operating a motorcycle shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(6) *Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.*

(7) *Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo."*

Section 2. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's license and permits shall be as follows:

(a) The fee for any original or renewal license, including motorcycle operator's license, shall be \$4.00 [\$3.00];

(b) The fee for any instruction permit[,] shall be fifty cents plus fifty cents (50) for preparing and acknowledging such application; [and]

(c) The fee for a duplicate license shall be \$2.00; and [\$1.00.]

(d) *The fee for a non-driver's identification card shall be \$2.00.*

(2) The circuit clerk shall retain fees pertaining to applications and license fees in the following manner:

(a) One dollar and *seventy-five* [twenty-five] cents [(\$1.25)] of any original and renewal license[s];

(b) Fifty cents (50) for issuance of any instruction permit;

(c) Fifty cents (50) for preparing and acknowledging an application for an instruction permit; [and]

(d) *One dollar and twenty-five* [Seventy-five (75)] cents for preparing and acknowledging an application for a duplicate; [.]

(e) *One dollar and twenty-five cents for each non-driver's identification card; and*

(f) *For each original, renewal, duplicate license and non-driver's identification card, fifty cents shall be credited to a special account within the state road fund and shall be used by the department of transportation exclusively for the purpose of processing a photo license.*

(3) The remainder of all fees, and other moneys collected by the circuit court clerk shall be forwarded to the department of *transportation* [revenue].

(4) *The photo licenses shall be in use and the procedures prescribed by this Act shall be fully implemented by June 30, 1974.*

Section 3. A new section of KRS 186.531 is created to read as follows:

(1) To implement provisions of this Act there is hereby created a commission composed of the commissioner of the department for finance and administration, the secretary of the department of transportation, two persons chosen by the circuit clerk's association, and one person designated by the Speaker of the House of Representatives, to determine which color photo process shall be employed in issuing the licenses prescribed by this Act.

(2) The process or processes selected shall, as nearly as practical, prohibit reproduction or alteration of the license or the ability to superimpose a photograph upon such license without ready detection.

(3) To assist the commission in making its determination, the department of transportation shall promulgate regulations and standards for evaluating various processes and equipment available for such purpose, and shall afford an opportunity to each reliable and financially responsible company with such a

process an opportunity to demonstrate its process and equipment.

(4) After making such studies and examining such processes and equipment, the commission shall determine the best available process and equipment at the most economical price and shall select said process and equipment for use under provisions of this Act.

The Committee Amendment to **HB 503** is as follows:

Amend printed copy of House Bill 503 page 2, line 7 by deleting "may" and by striking the brackets before and after the word "shall".

HB 481, AN ACT relating to dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 258 is created to read as follows:

(1) In the interest of the public health and safety, the county judge shall have the power to appoint deputy dog wardens to assist in enforcing the provisions of this chapter. Deputy dog wardens shall have the same duties and powers as dog wardens.

(2) The expenses of the appointed deputy dog wardens shall be paid from the funds of the dog wardens.

The Committee Substitute for **HB 481** is as follows:

HB 481, AN ACT relating to dog wardens and deputy dog wardens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 258 is created to read as follows:

(1) In the interest of the public health and safety, the county judge shall have the power to appoint deputy dog wardens to assist in enforcing the provisions of this chapter, providing the dog warden is not performing or unable to perform his duties. Deputy dog wardens shall have the same duties and powers as dog wardens.

(2) The expenses of the appointed deputy dog wardens shall be paid from the funds of the dog wardens.

The Committee on Health and Welfare reported **SB 42** with Committee Amendment attached thereto and **SB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 42, AN ACT relating to health facilities and services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.405 is amended to read as follows:

As used in KRS 216.415 to 216.485, unless a different meaning appears from the context:

(1) "Applicant" means any person, group, health facility, or health service requesting certificate of need or licensure for a health facility or health service.

(2) "Board" means the Kentucky Certificate of Need and Licensure Board.

(3) "Certificate of need" means an authorization by the board to an applicant to construct, expand, or modify a health facility, or to initiate, expand or modify a health service.

(4) "Construction or modification" means the erection, building, alteration, reconstruction, modernization, improvement, extension or establishment of a health facility or service, or the purchase or acquisition of diagnostic or therapeutic equipment, the inspection and supervision thereof, and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto, which:

- (a) Requires the total capital expenditure in excess of one hundred thousand dollars (\$100,000); or
- (b) Will either
 - 1. Initiate or expand the scope or type of services rendered, or
 - 2. Increase or decrease the bed complement of a health facility or health service.

(5) "Department" means the Kentucky Department of Health.

(6) "Health facility and health services" means any program, institution, place, building, or agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care to any person or persons. This shall include, but shall not be limited to health facilities and health services commonly referred to as hospitals, extended care and recuperation centers, nursing homes, personal care homes, homes for the aged and infirm, intermediate care facilities, outpatient clinics, ambulatory care facilities, emergency care centers and services, community mental health and mental retardation centers, home health agencies, health maintenance organizations and others providing similarly organized services regardless of nomenclature.

The provisions of this Act shall not apply to ambulances, ambulance service, or the providing thereof when a county, through appropriate action of the fiscal court, has elected not to be covered by the provisions of this Act.

If a county elects not to be covered by the provisions of this Act:

(1) *No ambulance or ambulance service based in that county shall be regulated pursuant to the Act, regardless of where the ambulances may travel in the state;*

(2) *Ambulance services presently licensed, holding certificates of need, or applying for same based in that county shall continue to be regulated by the Board only if such is desired by the licensee or applicant, otherwise they shall cease to be regulated by the board as of the date the election is made by the county;*

(3) *No punitive or other adverse action shall be taken by the Board or any other agency of state government against any licensee, holder of a certificate of need, applicant for same, or ambulance service because the county in which it is based has elected not to be covered by the provisions of this Act.*

(4) *Nothing in this section shall prevent:*

(a) *An ambulance operator from voluntarily seeking licensure pursuant to the provisions of this Act or being licensed or granted a certificate of need; or*

(b) *A county from withdrawing its election not to be covered by the Act; or*

(c) *A county, even after withdrawal of the election not to be covered by the Act, again reinstating its election not to be covered by the Act.*

(7) "License" means an authorization to an applicant to operate a health facility or health service.

(8) "Regional health planning council" means the designated health planning body for the established regions within the Commonwealth, as provided under Public Law 89-749.

(9) "State health planning commission and state health planning council" means the designated agency and advisory council established to comply with Public Law 89-749 and subsequent amendments.

The Committee Amendment to **SB 42** is as follows:

Amend printed copy of Senate Bill 42 page 3, lines 2, 6, 8, 10, and 23 to delete the word "Act" and to insert in lieu thereof the word "chapter"

and on page 4, following line 17, to add the following:

"Section 2. A new section of KRS Chapter 216 is created to read as follows:

The provisions of this Act shall apply only to those portions of KRS Chapter 216 which relate to ambulance service, or the providing thereof, and to ambulances and shall not apply to any other health facility or service."

SB 70, AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.315 is amended to read as follows:

(1) The natural or adoptive parents of persons who are long term patients at facilities owned or operated by the Department for Human Resources [of Mental Health] shall only be liable on the charges made by such facility for treatment, care and maintenance for an amount not to exceed the cost of caring for a normal child at home as determined from standard sources by the Department for Human Resources [of Mental Health].

(2) Parents or adoptive parents of a long term patient in a facility owned or operated by the Department for Human Resources [of Mental Health] shall not be liable for any charges made by such facility for treatment, care and maintenance of such a patient incurred or accrued subsequent to such patient attaining age 18 [21].

(3) For purposes of this section the term "long term patient" is defined as a person who has been or will be, or will reasonably be expected to be a patient in a facility owned or operated by the Department for Human Resources [of Mental Health] for a continuous period in excess of 120 days. *The determination as to whether a person is a long-term patient within the meaning of this section shall be made by the Commissioner, or his duly designated agent, of the responsible bureau in the Department for Human Resources.* No absence of a patient from the facility due to a temporary or trial visit shall be counted as interrupting the accrual of the 120 days herein required to attain the status of a long term patient.

The Committee on Public Utilities and Transportation reported **HB 76** with Committee Amendment attached thereto, **HB 361**, and **HB 397** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation; [or]

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; *or*

(f) *The treatment of sewage for the public, for compensation.*

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution sub-station to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service.

(13) "Commission" means the Public Service Commission of Kentucky.

(14) "Commissioner" means one of the members of the commission.

The Committee Amendment No. 2 to **HB 76** is as follows:

Amend printed copy of House Bill 76 page 2, line 12 by changing the period to a comma and by inserting thereafter the following: *"if the facility is a subdivision treatment facility plant, is located in a county containing a city of the first class and is not subject to regulation pursuant to KRS Chapter 76,"*

and on page 4 by inserting after line 11, the following:

"Section 2. Section 1(1)(f) of this Act shall become effective January 1, 1975."

"Section 3. There is hereby appropriated to the Public Service Commission from the General Expenditure Fund in the State Treasury the sum of \$25,000 for the fiscal year 1974-75 and the sum of \$150,000 for the fiscal year 1975-76 for the purpose of planning for the implementation of this Act and for the implementation of this Act."

HB 361, AN ACT relating to bond of railroad policemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Section 277.280 is amended to read as follows:

(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office and the oath required by Section 228 of the constitution. The bond shall be executed in the county court of the county in which the policeman resides, *or in which the railroad has its registered process agent, if any, within the state, or in which the policeman performs any duties as a railroad policeman,* and the bond shall be approved, and the oath administered, by the county judge. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.

(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

HB 397, AN ACT relating to railroad policemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 277.270 is amended to read as follows:

(1) Any company owning or operating a railroad in this state shall apply to the Secretary of the Department of Justice to appoint and commission as railroad policemen such persons as the company designates, unless an election is made by the railroad to qualify security personnel under the Private Security Services Act.

(2) The secretary, or his designated representative, upon such application being made, and upon the payment to him of a fee of five dollars for each policeman to be appointed, shall appoint, and give commissions to be policemen, to those persons designated by the company or to as many of them as he deems proper. Provided, however, that the designee shall meet the following requirements.

(a) No person shall be eligible for a commission who:

(i) Has been dishonorably discharged from the armed forces of the United States; or

(ii) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon; or

(iii) Has been convicted of any other offense more than five times within the previous three years; or

(iv) Has by any court of competent jurisdiction been declared incompetent by reason of mental defect or disease and has not been restored; or

(v) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the Secretary, or his designated representative, determines to materially impair the applicant's ability to perform the duties of a railroad policeman.

(b) Every person to be eligible for a commission shall:

(i) Have reached his twenty-first birthday; and

(ii) Provide, on forms supplied by the Secretary, or his designated representative, such information pertaining to himself as may reasonably be requested thereon, including, but not limited to: his name; age; date of birth; past and present addresses and employment; aliases, if any; arrest and conviction record, if any; Social Security number; fingerprints, photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his attestation shall be notarized by one authorized to administer oaths; and

(iii) Be of good moral character; and

(iv) Provide references from two reputable residents of the Commonwealth who are not related to him and who have known him well for a period of not less than three years, attesting to his good character; and

(v) Demonstrate, within 90 days following the date of employment, in written and practical examinations approved by the Kentucky Law Enforcement Council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use; and

(vi) Provide evidence satisfactory to the Secretary, or his designated representative, that he meets at least two of the following requirements:

(aa) Is a graduate of an accredited high school; or of an equivalent technical or vocational training or education program satisfactory to the Secretary; or holds a G.E.D. certificate;

(bb) Has been employed in a railroad security or private security services capacity, or in some equivalent capacity satisfactory to the Secretary, for a total of not less than six hundred (600) duty hours within the two (2) years prior to applying for a commission;

(cc) Has successfully completed not fewer than forty (40) hours of training in a program approved by the Kentucky Law Enforcement Council and dealing comprehensively with the subjects of criminal law and the laws of arrest, search and seizure;

(dd) Has been employed as a full-time, sworn public peace officer, or in a military police organization of the armed services, for a period of not less than one year within the past five years, and has never been discharged for cause from employment as a sworn public peace officer or as a member of an armed services military police organization;

(ee) Has successfully completed a written, oral and practical examination approved by the Kentucky Law Enforcement Council and dealing comprehensively with the subject matter of criminal law and the laws of arrest, search and seizure.

(c) Every person designated by the railroad company in its application on or after January 1, 1976, shall, as one of the requirements imposed by subsection (b) of this Act meet the requirements of subsection (2)(b)(vi)(cc), or (dd), or (ee).

(3) Every railroad company applying for commissions under this section shall, prior to employing each applicant for a commission, make all reasonable inquiry to ascertain that the applicant complies with the requirements of subsection (2)(a) and (2)(b)(i) through (2)(b)(iv).

(4) The Secretary, or his designated representative, may make such additional inquiries as he deems necessary to determine that applicants satisfy the requirements of this section.

(5) In the event that training or examinations required under subsection (2)(b) and provided by any railroad company for commission applicants do not satisfy the training standards of the Kentucky Law Enforcement Council in respect to training in firearms, criminal law, and the laws of arrest, search and

seizure, the applicants designated by that company shall apply for licensing under the Private Security Services Act.

(6) When a railroad company no longer needs the services of a railroad policeman so appointed, notice to that effect, signed by the head of the security department shall be submitted to the Secretary of the Department of Justice and to the county court clerk of the county in which the commission is recorded.

[(1) Any company owning or operating a railroad in this state may apply to the governor to appoint and commission as railroad policemen such persons as the company designates. The governor, upon such application being made and upon the payment to him of a fee of five dollars (\$5.00) for each policeman to be appointed, shall appoint such persons as the company designates, or as many thereof as he deems proper to be such policemen, and shall give commissions to those appointed.

(2) When a railroad company no longer needs the services of a railroad policeman so appointed, notice to that effect, signed by the general manager or by the person in charge of operating the railroad, may be filed in the several offices in which the commission of the policeman is recorded. The clerk shall note the fact upon the margin of the record where the commission is recorded, and thereupon the power of the policeman shall cease as to any particular county in which such notice is so filed and recorded.]

Section 2. KRS 277.280 is amended to read as follows:

(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office and the oath required by Section 228 of the Constitution. The bond shall be executed in the county court of the county in which the policeman resides, or has his principal office, or performs his duties as a railroad policeman. The bond shall be approved and the oath administered, by the county clerk, and the execution of the bond and the taking of the oath shall be endorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.

(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

[(1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office and the oath required by §228 of the constitution. The bond shall be executed in the county court of the county in which the policeman resides, and the bond shall be approved, and the oath administered, by the county judge. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.

(2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.]

Section 3. A new section of KRS Chapter 277 is created to read as follows:

This Act shall take effect on January 1, 1975 and shall apply only to railroad policemen employed after December 31, 1974.

The Committee on State Government reported **HB 100** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, **HB 121** with Committee Amendment attached thereto, **HB 168** with Committee Amendment attached thereto, **HB 169**, **HB 393**, **HR 25**, **HR 39**, and **HR 49** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 100, AN ACT relating to meetings.

WHEREAS, it is the policy of the Commonwealth that the formation of public policy is public business and may not be conducted in secret; and

WHEREAS, the Legislature finds and declares that public agencies in this Commonwealth exist to aid in the conduct of the public's business; and

WHEREAS, the people of this Commonwealth do not yield their sovereignty to the agencies which serve them; the people, in delegating authority, do not give their public servants the right to decide what is good for the public to know and what is not good for them to know; the people insist on remaining informed so they may retain control over the instruments they have created;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 61 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, regardless of where the meeting is held, and whether formal or informal, regular or special;

(2) "Public agency" means any state legislative, executive, administrative or advisory board, commission, committee, department, education institution or other state agency which is created by or pursuant to statute or executive order, other than the courts; any county, city, school district, special purpose district boards, bureaus, public commissions, councils, divisions, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies;

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.

Section 2. A new section of KRS Chapter 61 is created to read as follows:

All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by such agency, are declared to be public meetings, open to the public at all times, except for the following:

(1) Deliberations for decisions of the Kentucky Parole Board which involve individual prisoners.

(2) Deliberations on the future acquisition of real property by the government, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use.

(3) Discussions of proposed or pending litigation against or on behalf of the governmental unit, but only when the public agency's legal counsel is present.

(4) Grand and petit jury sessions.

(5) Collective bargaining negotiations.

(6) Discussions of the appointment, discipline or dismissal of an individual employee of government, or student, without restricting that employee's or student's right to a public hearing if requested, provided that this exception is designed to protect the reputation of individual persons and shall not be interpreted to permit discussion of general personnel matters in secret.

(7) Meetings which federal or state law specifically require to be conducted in privacy.

(8) Meetings which the Constitution provides shall be held in secret.

Section 3. A new section of KRS Chapter 61 is created to read as follows:

Prior to the convening of any closed session authorized by Section 2 of this Act except those involving grand and petit jury sessions, public notice shall be given of the general nature of the business to be discussed in closed session and the reason for the closed session. Closed sessions only may be held after a motion is made and carried by a majority, roll-call vote in open, public session. No final action may be taken at a closed session. No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

Section 4. A new section of KRS Chapter 61 is created to read as follows:

All meetings of all public agencies of this State, and any committees or subcommittees thereof shall be held at specified times and places which are convenient to the public and shall provide for a schedule of regular meetings by ordinance, resolution, by-laws or by whatever other means may be required for the conduct of business of that public agency, and said schedule of regular meetings shall be made available to the public.

Section 5. A new section of KRS Chapter 61 is created to read as follows:

(1) A special meeting may be called at any time by the presiding officer of the public agency or by a majority of the members of the governing body of the public agency by delivering personally or by mail written notice to each member of the public agency and to each local newspaper of general circulation, each news service and each local radio or television station which has on file with the public agency a written request to be notified of special meetings. Said notice of a special meeting must be delivered personally or by mail at least twenty-four (24) hours prior to the time of such meeting as specified in the notice. If time does not permit giving twenty-four (24) hour notice, then notice that is reasonable under existing circumstances and is calculated to inform the public shall be given to the news media and the public.

(2) The notice provided for in subsection (1) of this section is not required in the event that a special meeting is called to deal with an emergency involving injury or damage to personal property or the likelihood of such injury or damage, when the time requirements of such notice of such special meeting would make such notice impractical and increase the likelihood of injury or damage.

(3) With the exception of special meetings called pursuant to subsection (2) of this section no special meeting shall be held except in full compliance with provisions of subsection (1) of this section.

Section 6. A new section of KRS Chapter 61 is created to read as follows:

No rule, resolution, regulation, ordinance or other formal action of such public agency shall be valid unless taken at a meeting which meets the requirements of Sections 2, 3, 4, and 5 of this Act.

Section 7. A new section of KRS Chapter 61 is created to read as follows:

The minutes of every meeting of any such public agency, setting forth an accurate record of votes and actions at such meetings, shall be promptly recorded and such records shall be open to public inspection at reasonable times no later than immediately following the next meeting of the body.

Section 8. A new section of KRS Chapter 61 is created to read as follows:

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions which insofar as is feasible allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

Section 9. A new section of KRS Chapter 61 is created to read as follows:

The circuit courts of this state shall have jurisdiction to enforce the purposes of these sections, 2 through 8 of this Act, by injunction or other appropriate order upon application by any citizen of this state.

Section 10. A new section of KRS Chapter 61 is created to read as follows:

Any person who attends a meeting of any public agency covered by this Act of which he is a member, not held in accordance with the provisions of this Act shall be punished by a fine of not more than \$100, or by imprisonment in jail for not more than 30 days, or both.

Section 11. A new section of KRS Chapter 61 is created to read as follows:

This Act shall not be construed as repealing any of the laws of the Commonwealth relating to meetings but shall be held and construed as ancillary and supplemental thereto.

Section 12. If any provision of this Act, or the application thereof, to any person or circumstance, is held invalid, the validity of the remainder of such act and the application of such provision to other persons and circumstances shall not be affected thereby.

The Committee Substitute for **HB 100** is as follows:

HB 100, AN ACT relating to meetings.

WHEREAS, it is the policy of the Commonwealth that the formation of public policy is public business and may not be conducted in secret; and

WHEREAS, the Legislature finds and declares that public agencies in this Commonwealth exist to aid in the conduct of the public's business; and

WHEREAS, the people of this Commonwealth do not yield their sovereignty to the agencies which serve them; the people, in delegating authority, do not give their public servants the right to decide what is good for the public to know and what is not good for them to know; the people insist on remaining informed so they may retain control over the instruments they have created;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 61 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, regardless of where the meeting is held, and whether regular or special;

(2) "Public agency" means any state legislative, executive, administrative or advisory board, commission, committee, policy making board of an institution of education or other state agency which is created by or pursuant to statute or executive order, (other than judicial or quasi-judicial bodies); any county, city, school district, special purpose district boards, public commissions, councils, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local

ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies;

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.

Section 2. A new section of KRS Chapter 61 is created to read as follows:

All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by such agency, are declared to be public meetings, open to the public at all times, except for the following:

- (1) Deliberations for decisions of the Kentucky Parole Board.
- (2) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.
- (3) Discussions of proposed or pending litigation against or on behalf of the public agency.
- (4) Grand and petit jury sessions.
- (5) Collective bargaining negotiations between public employers and their employees or their representatives.
- (6) Discussions which might lead to the appointment, discipline or dismissal of an individual employee, member or student without restricting that employee's, member's or student's right to a public hearing if requested, provided that this exception is designed to protect the reputation of individual persons and shall not be interpreted to permit discussion of general personnel matters in secret.
- (7) Meetings between public agencies and industrial prospects.
- (8) State cabinet meetings and executive cabinet meetings.
- (9) Committees of the General Assembly other than standing committees.
- (10) Meetings which federal or state law specifically require to be conducted in privacy.
- (11) Meetings which the Constitution provides shall be held in secret.

Section 3. A new section of KRS Chapter 61 is created to read as follows:

Prior to the convening of any closed session authorized by Section 2 of this Act, except those excluded under Subsections 3, 4, 7, 8, 9, 10 and 11 of Section 2 of this Act, notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session and the reason for the closed session. Closed sessions may be held only after a motion is made and carried by a majority, vote in open, public session. No final action may be taken at a closed session. No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.

Section 4. A new section of KRS Chapter 61 is created to read as follows:

All meetings of all public agencies of this State, and any committees or subcommittees thereof shall be held at specified times and places which are convenient to the public and shall provide for a schedule of regular meetings by ordinance, resolution, by-laws or by whatever other means may be required for the conduct of business of that public agency, and said schedule of regular meetings shall be made available to the public.

Section 5. A new section of KRS Chapter 61 is created to read as follows:

(1) A special meeting may be called at any time by the presiding officer of the public agency or by a majority of the members of the governing body of the public agency by delivering personally or by mail written notice to each member of the public agency and to each local newspaper of general circulation, each news service and each local radio or television station which has on file with the public agency a written request to be notified of special meetings. Said notice of a special meeting must be delivered personally or by mail at least twenty-four (24) hours prior to the time of such meeting as specified in the notice. If time does not permit giving twenty-four (24) hour notice, then notice that is reasonable under existing circumstances and is calculated to inform the public shall be given to the news media and the public.

(2) The notice provided for in subsection (1) of this section is not required in the event that a special meeting is called to deal with an emergency involving injury or damage to personal property or financial loss to a public agency or the likelihood of such injury or damage or financial loss, when the time requirements of such notice of such special meeting would make such notice impractical and increase the likelihood of injury or damage or financial loss.

(3) With the exception of special meetings called pursuant to subsection (2) of this section no special meeting shall be held except in full compliance with provisions of subsection (1) of this section.

Section 6. A new section of KRS Chapter 61 is created to read as follows:

Any rule, resolution, regulation, ordinance or other formal action of a public agency without substantial compliance of the requirements of Sections 2, 3, 4, and 5 of this Act shall be voidable by a Court of competent jurisdiction. A certificate by the Clerk or secretary of said public agency at said meeting that the requirements of Sections 2, 3, 4 and 5 of this Act were complied with and shall be prima facie and admissible in any Court of competent jurisdiction.

Section 7. A new section of KRS Chapter 61 is created to read as follows:

The minutes of action taken at every meeting of any such public agency, setting forth an accurate record of votes and actions at such meetings, shall be promptly recorded and such records shall be open to public inspection at reasonable times no later than immediately following the next meeting of the body.

Section 8. A new section of KRS Chapter 61 is created to read as follows:

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions which insofar as is feasible allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

Section 9. A new section of KRS Chapter 61 is created to read as follows:

The circuit courts of this state shall have jurisdiction to enforce the purposes of these sections, 2 through 8 of this Act, by injunction or other appropriate order upon application by any citizen of this state.

Section 10. A new section of KRS Chapter 61 is created to read as follows:

Any person who knowingly attends a meeting of any public agency covered by this Act of which he is a member, not held in accordance with the provisions of this Act shall be punished by a fine of not more than \$100.

Section 11. A new section of KRS Chapter 61 is created to read as follows:

This Act shall not be construed as repealing any of the laws of the Commonwealth relating to meetings but shall be held and construed as ancillary and supplemental thereto.

Section 12. If any provision of this Act, or the application thereof, to any person or circumstance, is held invalid, the validity of the remainder of such act and the application of such provision to other persons and circumstances shall not be affected thereby.

The Committee Amendment to the Committee Substitute for **HB 100** is as follows:

Amend printed copy of Committee Substitute for House bill 100 page 2, line 23 by inserting, between the words "All" and "meetings" the words "regular or special called"

and on page 4, by deleting all of lines 9 through 20 in their entirety and inserting in lieu thereof the following:

"Except those public agencies excluded under subsections 1, 3, 4, 7, 8, 9, 10, and 11 of Section 2 of this Act, the following requirements shall be met as a condition for conducting closed sessions authorized by Section 2 of this Act:

(1) Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session and the reason for the closed session;

(2) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

(3) No final action may be taken at a closed session;

(4) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session."

HB 121, AN ACT relating to noise control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 224 is created to read as follows:

This Act may be cited as the "Kentucky State Noise Control Act."

Section 2. A new section of KRS Chapter 224 is created to read as follows:

The legislature finds and declares that:

(1) Excessive noise is a serious hazard to the public health and welfare and the quality of life.

(2) A substantial body of science and technology exists by which excessive noise may be substantially abated.

(3) Each person has a right to an environment free from noise that jeopardizes his health or welfare or degrades the quality of life or lowers property value.

(4) It is the policy of the state to promote an environment for all people free from noise that jeopardizes their health or welfare or degrades the quality of life.

Section 3. A new section of KRS Chapter 224 is created to read as follows:

(1) "Commissioner" means the Commissioner of Natural Resources and Environmental Protection.

(2) "Department" means the Department of Natural Resources and Environmental Protection.

(3) "Local government" means any county or city.

(4) "Environmental noise" means the intensity, duration, and character of sounds from all sources.

(5) "Ultimate purchaser" means the first person who in good faith purchases a product for purposes other than resale.

(6) "Person" means an individual, corporation, partnership, or association, and includes any officer, employee, department, agency, or instrumentality of the United States, a state, or any political subdivision of a state.

Section 4. A new section of KRS Chapter 224 is created to read as follows:

(1) State agencies shall, to the fullest extent consistent with their authorities under state laws administered by them, carry out the programs within their control in such a manner as to further the policy stated in Section 2 of this Act.

(2) State agencies shall cooperate with the commissioner in a state program of noise regulation developed and maintained under this Act.

(3) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the government of this state having jurisdiction over any property or facility, or engaged in any activity resulting, or which may result, in the emission of noise, shall comply with federal, state, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements.

(4) Each state agency shall consult with the commissioner in prescribing standards or regulations respecting noise. If at any time the commissioner has reason to believe that a standard or regulation, or any proposed standard or regulation, of any agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Such agency shall complete the requested review and report to the commissioner within such time as the commissioner specifies, but such time specified may not be less than sixty days from the date the request was made.

Section 5. A new section of KRS Chapter 224 is created to read as follows:

(1) The commissioner shall develop, adopt, and maintain a comprehensive state-wide program of noise regulation which may include, but not be limited to, the following:

(a) Controls on environmental noise (or one or more sources thereof) through the licensing, regulation, and restriction of the use, operation, and movement of any product or combination of products.

(b) Noise emission standards for products which, in the commissioner's judgment, are major sources of noise, or are products for which noise emission standards are feasible and are requisite to protect the public health and welfare.

(c) Labeling requirements which prohibit the sale or offer to sell or the lease or offer to lease of any product, machine, vehicle, or equipment, or class thereof, without notice to the prospective purchaser, lessee, or user of the noise levels and characteristics emitted by such product, machine, vehicle or equipment, or its effectiveness in reducing noise, as the case may be.

(d) Real property notice requirements which establish procedures by which prospective purchasers or lessees of real property shall be notified in writing and in advance of agreement to purchase, or lease, of the existence of, or plans for, major noise sources such as airports, highways, and mass transit facilities, where such sources may be expected to have an actual or projected adverse impact upon the enjoyment of the property for the use for which it is zoned or for which it is being sold or leased.

(e) Development and adoption of ambient noise standards except such ambient noise standards shall not exceed those ambient noise standards promulgated by regulation by the Administrator of the federal Environmental Protection Agency.

(f) Development and adoption of a plan for the achievement of ambient noise standards.

(g) Noise insulation and abatement standards for any occupancy or class of occupancies of buildings, and the limitation of human exposure to noise generated by mechanical equipment and systems associated with such buildings. Such noise insulation and abatement standards shall be based on criteria for the limitation of interior noise exposures appropriate to building and occupancy use.

(h) Establishment of special noise insulation districts within which specified building performance standards and noise insulation standards shall apply, in order to protect building occupants from excessive noise of external origins.

(i) Regulations for the protection of all employed persons within the state against exposure to excessive noise at their place of work.

(j) Registration requirements for the construction, installation, use and operation of machinery, equipment or facilities, or classes thereof, including such conditions as the commissioner may deem appropriate for the purposes of the Act.

(2)(a) Any regulation promulgated pursuant to the authority of this Act shall be one which, in the judgment of the commissioner is requisite to protect the public health and welfare, taking into account the magnitude and conditions of use of the product or activity involved, the degree of noise reduction achievable through the application of the best commercially available technology, and the cost of compliance. In determining the degree of noise reduction achievable through the application of the best available technology, the commissioner shall take into consideration technology which may be available at the time the regulation becomes effective.

(b) The department may adopt rules and regulations to carry out this Act.

Section 6. A new section of KRS Chapter 224 is created to read as follows:

In order to implement the purposes of this Act, the commissioner may:

(1) Cause to be conducted a program of studies, research and monitoring related to environmental noise.

(2) Review and comment upon environmental impact statements regarding projects having any portion of their potential impact within the borders of this state and prepared by or for a federal agency in compliance with the National Environmental Policy Act of 1969 prepared by or for a state agency, as such statements pertain to noise.

(3) Provide technical assistance to other state agencies and to political subdivisions of this state.

(4) Conduct programs of public education regarding the causes and effects of noise and means for its abatement and control and encourage the participation of professional, scientific, conservation and other public interest groups in related public information efforts.

(5) Coordinate the programs of all state and local agencies relating to noise studies and noise control.

(6) Cooperate with the appropriate agencies of the United States, or of other states or any interstate agencies with respect to the control, prevention and abatement of noise.

(7) Receive and disburse all funds pertaining to the state's noise control program from private and public sources.

(8) Contract for property and services, including consulting services.

(9) Upon presentation of proper credentials, enter any building, property, premises, or place, except a private dwelling, and inspect any noise source for the purpose of ascertaining the compliance or non-compliance with any regulation which may have been adopted by the department hereunder. If, in connection with such inspection or investigation, noise measurements, recordings or tests of any type are taken for analysis, a duplicate of the analytical report shall be furnished to the person who is suspected of causing such noise pollution or is responsible therefor.

(10) Have access to, and require the production of, books and papers pertinent to any matter under investigation.

(11) Require the owner or operator of any noise source to establish and maintain records and make such reports and furnish such information as the commissioner may reasonably prescribe.

(12) Investigate complaints, institute and conduct surveys and testing programs, conduct general ambient noise sampling programs, make observations of conditions which may or do cause or affect noise pollution, make tests or other determinations of noise sources, and assess the degree of abatement required.

Section 7. A new section of KRS Chapter 224 is created to read as follows:

(1) The commissioner shall certify any product:

(a) Which has been certified by the Administrator of the United States Environmental Protection Agency pursuant to section 15 of the Noise Control Act of 1972 as a low-noise-emission product or which the commissioner determines emits noise in amounts significantly below the levels specified in noise emission standards issued pursuant to federal law or this Act, and

(b) Which he determines is suitable for use as a substitute for a type of product at that time in use by agencies of the state government.

(2) Certification under this section shall be effective for a period of one year from the date of issuance.

(3) Products certified pursuant to subsection (1) of this section shall be acquired by purchase or lease by the state government for use by the state government in lieu of other products if the Director of Purchases determines that such certified products have procurement costs which are no more than 125 percentum of the retail price of the least expensive type of product for which they are certified substitutes. In making purchasing selections between competing eligible certified products, the procuring agency shall give priority to any class or model which does not require extensive periodic maintenance to retain its low noise qualities or which does not involve operating costs significantly in excess of those products for which it is a certified substitute. The term "retail price" means the maximum statutory price applicable to any type of product; or

in any case where there is no applicable maximum statutory price, the most recent procurement price paid for any type of product.

(4) The commissioner shall, from time to time as he deems appropriate, test the emissions of noise from certified products purchased by the state government. If at any time he finds that the noise emission levels exceed the levels on which certification was based, the commissioner shall give the supplier of such product written notice of this finding and give the supplier an opportunity to make necessary repairs, adjustments or replacements. If no such repairs, adjustments, or replacements are made within a period to be set by the commissioner, he may order the supplier to show cause why the product involved should be eligible for recertification.

(5) The commissioner shall promulgate the procedures required to implement this section.

Section 8. A new section of KRS Chapter 224 is created to read as follows:

The commissioner may grant individual variances beyond the limitations prescribed in this Act or in any regulation promulgated pursuant to this Act, whenever it is found, upon presentation by the petitioner of adequate proof, that compliance with any provision of this Act, any regulation promulgated under it or an order of the commissioner would impose an arbitrary or unreasonable hardship. In granting or denying a variance, the commissioner shall file and publish a written opinion stating the facts and reasons leading to his decision.

Section 9. A new section of KRS Chapter 224 is created to read as follows:

(1) In granting a variance the commissioner may impose such conditions as the policy of this Act requires. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this Act or of the regulations promulgated under it, the commissioner may condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(2) Any variance granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one year, as shall be specified by the commissioner at the time of the grant of such variance, and upon the condition that the person who receives such variance shall make such periodic progress reports as the commissioner shall specify. Such variance may be extended from year to year by affirmative action of the commissioner but only if satisfactory progress has been shown.

Section 10. A new section of KRS Chapter 224 is created to read as follows:

Any person seeking a variance shall do so by filing a petition for variance with the department. The department shall promptly give written notice of such petition to any person in the county in which the installation, property, or activity for which variance is sought is located who has in writing requested notice of variance petitions, and shall publish notice of such petition in a newspaper of general circulation in such county in accordance with the provisions of KRS Chapter 424. The department shall promptly investigate such petition and shall consider the views of persons who might be adversely affected by the grant of a variance. If the commissioner, in his discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within 30 days of the notice provided herein, a hearing shall be held as provided in KRS 224.083. Appeals may be taken from all orders of the department as provided in KRS 224.085.

Section 11. A new section of KRS Chapter 224 is created to read as follows:

The commissioner shall prepare annually a report to the Governor and the legislature on his progress in abating and preventing noise, including the commissioner's recommendations for any further legislation needed to implement the state's policy as stated in section 2 of this Act. The first such report shall be submitted at the next regular session after the effective date of this Act.

Section 12. A new section of KRS Chapter 224 is created to read as follows:

All local governments, as defined in section 3 of this Act, may develop, adopt, and maintain a comprehensive program of noise regulation. Such program may include a study of the noise problems resulting from uses and activities within its jurisdiction and the development and adoption of a Noise Control Plan.

Section 13. A new section of KRS Chapter 224 is created to read as follows:

Any Noise Control Plan adopted pursuant to section 12 of this Act may include, but not be limited to, the following:

- (1) Noise levels which will not be exceeded in specified zones or other designated areas,
- (2) The designation of a Noise Control Officer,
- (3) Plans, and procedures necessary for the implementation of plans, for transportation systems within the jurisdiction,
- (4) Plans concerning land-use within the jurisdiction,
- (5) Requirements of site design necessary for the approval of any construction within the jurisdiction,
- (6) The implementation procedures of the Noise Control Plan and the relation of the Noise Control Plan to other plans within the jurisdiction, and

(7) Strategies for assuring compliance with state and federal noise regulations.

Section 14. A new section of KRS Chapter 224 is created to read as follows:

Local governments may adopt and enforce ordinances necessary to implement the Noise Control Plan and any other program adopted pursuant to section 12 of this Act.

Such ordinances shall not be stricter than the standards promulgated by the state and federal government.

Section 15. A new section of KRS Chapter 224 is created to read as follows:

It is unlawful for any person to:

(1) Violate or fail to comply with this Act or any regulation adopted pursuant to it, or the terms or conditions of any variance or order issued pursuant to this Act or pursuant to any regulation adopted hereunder.

(2) Refuse, hinder or interfere with by force or otherwise, the performance by the commissioner or by any duly authorized agent or employe of the department or their assistants, of any duty under the provisions of this Act; or to refuse to such agent, employe, or assistant entrance to any premises upon proper identification and presentation of a search warrant, or to hinder or interfere with the conduct of an inspection, test, or taking of a sample by such authorized agent, employe or assistant where entry to the premises was obtained by consent, or by presentation of proper identification, and search warrant.

(3) On any property or premises owned or leased by such person, allow the creation, continuance, or maintenance of any noise, or allow the installation, use or operation of any noise source, which noise or source violates or fails to comply with this Act, or any regulation adopted pursuant to this Act, or the terms or conditions of any variance, or order issued pursuant to this Act or pursuant to any regulation adopted hereunder.

(4) Intentionally remove or render inoperable, other than for purposes of maintenance, repair or replacement, any device or element of design incorporated, in compliance with this Act, into any product, structure, machine, equipment, vehicle or appliance for the control, abatement, or prevention of noise emissions, either prior or subsequent to its sale or delivery to the ultimate purchaser; or to use such product, structure, machine, equipment, vehicle or appliance after such device or element of design has been removed or rendered inoperable with knowledge of the removal or rendering inoperable of such device or element of design.

(5) Remove any notice affixed to a product or container pursuant to regulations prescribed under section 5, subsection (1)(3), prior to sale of the product to the ultimate purchaser.

(6) Attempt to obtain a registration or variance required or permitted under this Act or any regulations adopted pursuant hereto by misrepresentation or failure to disclose all relevant facts.

Section 16. A new section of KRS Chapter 224 is created to read as follows:

The provisions of KRS 224.081, 224.083 and 224.085 apply to this Act.

Section 17. A new section of KRS Chapter 224 is created to read as follows:

Any person may commence a civil suit on his own behalf against any person who is alleged to be in violation of any noise control requirement of this Act or of any regulation established pursuant to this Act, or against the commissioner or department where there is alleged a failure of the commissioner or department to perform any act or duty under this Act which is not discretionary with such commissioner or department.

Section 18. A new section of KRS Chapter 224 is created to read as follows:

The provisions of this Act are not exclusive, and the remedies provided for in this Act shall be in addition to any other remedies provided for in any other law or available under common law.

Section 19. A new section of KRS Chapter 224 is created to read as follows:

(1) Any person who violates any of the provisions of this Act or who fails to perform any duties imposed by this Act, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars (\$1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars (\$1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the Attorney General.

(2) It shall be the duty of the Attorney General, upon the request of the department, to bring an action for the recovery of the penalties hereinabove provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this Act or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the agency shall be prima facie evidence of the fact or facts found therein.

(3) Any person who shall wilfully violate any of the provisions of this Act or any determination or order of the department promulgated pursuant to those sections which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs

shall constitute a separate violation.

(4) The authority herein vested in the Attorney General, upon request of the department, to bring actions for injunctions for violations of this Act or of any regulation, or order issued thereto, shall be exclusive. Nothing herein contained shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

Section 20. A new section of KRS Chapter 224 is created to read as follows:

(1) Any standard promulgated by the commissioner shall not be stricter than those promulgated by the federal government.

(2) All law enforcement agents, county attorneys and commonwealth's attorneys shall have concurrent jurisdiction with the department to enforce the provisions of this Act and seek recovery of penalties from any person who violates any of the provisions of this Act or who fails to perform any duties imposed by this Act.

Section 21. A new section of KRS Chapter 224 is created to read as follows:

No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle, above that emitted by the muffler originally installed on the vehicle and the original muffler shall comply with all of the requirements of this chapter. No person shall operate a motor vehicle with an exhaust system so modified.

Section 22. KRS 224.045 is amended to read as follows:

The environmental quality commission shall have the power, duty and authority to:

- (1) Establish such advisory committees as may be necessary and convenient.
- (2) Advise the commissioner on any matter within his responsibility which it deems necessary.
- (3) Advise the governor on any matter covered by the provisions of Acts 1972 (1st Ex.Sess.), ch. 3.
- (4) Serve as a working public forum for the exchange of views, concerns, ideas, information, and recommendations relating to the quality of the natural environment.

(5) Recommend adoption or rejection by a majority of its membership present and voting any proposal by the department to adopt, modify or revoke:

(a) Any positions proposed to be taken by the department on behalf of the state before interstate and federal agencies or federal legislative bodies on matters relating to or affecting the quality of the environment of the state;

(b) Any rule or regulation pertaining to the procedural aspects of hearings, appeals, the filing of reports, the issuance of orders, the issuance of permits, and the application for and the granting of exemptions; or

(c) Any procedures for the financial assistance grants proposed to be given to municipal, regional, county, or state organizations for environmental purposes.

(6) Recommend adoption or rejection after public hearing by a majority of its membership present and voting any proposal by the department to adopt, modify, or revoke:

(a) Any comprehensive environment quality plan, program or policy proposed for adoption as a state plan or policy pertaining to an environmental management activity; or

(b) Any rule or regulation pertaining to the prevention, abatement, and control of existing or threatened air or water pollution, disposal of solid waste, control of noise, or the use of air, land, or water resources; or strip mining and reclamation.

(7) *Establish an advisory committee on noise control, which shall consist of a sound engineer, an audiologist, and one representative from each of the following: transportation industry, manufacturing industry, labor, citizenry, and the General Assembly. Such members shall be appointed with the approval of the commissioner, who shall be an ex officio member.*

Section 23. A new section of KRS Chapter 224 is created to read as follows:

Whereas, an emergency is declared to exist, this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to **HB 121** is as follows:

Amend printed copy of House Bill 121 page 2, line 4 by striking the word "of" and substituting in place thereof "for"; and on page 2, line 7, by inserting after "Environmental noise" the words "and ambient noise" and on page 2, by inserting after line 16, at the end of subsection (6) the following additional subsection: "(7) 'Noise' means the intensity, frequency, duration, and character of sounds from a source or number of sources. Noise includes vibrations of sub-audible frequency." "(8) 'Product' means any manufactured article or goods or component thereof."; and on page 4, lines 21 through 26 by deleting these lines in their entirety, and on page 5, lines 1 through 4, by deleting these lines in their entirety and on page 5, line 5, by deleting "(e)" and substituting in place thereof "(d)" and on page 5, line 10, by deleting "(f)" and substituting in place thereof "(e)" and on page 5, line 12, by deleting "(g)" and substituting in place thereof "(f)" and on page 5, line 13, after the word buildings, by inserting the following: "except residential dwellings"

and on page 5, line 20 by deleting "(h)" and substituting in place thereof "(g)"

and on page 5, line 25, by deleting "(i)" and substituting in place thereof "(h)"

and on page 6, line 2, by deleting "(j)" and substituting in place thereof "(i)"

and on page 8, line 26, by striking the word "shall" and substituting in place thereof "may";

and on page 9, line 15, by deleting the word "shall" and substituting in place thereof "may".

and on page 18, line 12, by inserting after "violation." the following:

"For violations by motor vehicles, the fine shall be not less than ten dollars nor more than fifty dollars for a first offense, and not less than fifty dollars nor more than one hundred dollars for each subsequent offense."

and on page 21, line 15 through line 17 by deleting all of the language contained therein and substituting in place thereof:

"In order to effectuate the purposes of this Act, forty thousand dollars is hereby appropriated from the General Expenditure Fund of the State Treasury for the fiscal year 1974-1975."

and on page 21, by inserting at the end of the bill the following section:

"Section 24. A new section of KRS Chapter 224 is created to read as follows:

Nothing in this Act shall apply to farm tractors or other farm machinery, equipment or vehicles primarily designed or used for off public highway use. This section shall be construed to exclude from the provisions of this Act only such vehicles not required to be licensed for use on public highways."

HB 168, AN ACT relating to reservation of certain tax receipts for urban roads and streets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1 KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1973, one-eighteenth (1/18) of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside by the *bureau* [department] of highways for the construction, reconstruction and maintenance of urban roads and streets [which provide necessary connecting links for state, county and federal highways.] and for no other purpose.

(2) *As used in this act unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans; acquisition of rights of way, relocation of utilities, elimination of hazards of roadway grade crossing, and all other items defined in the bureau of highways, design, operations, and construction manuals.*

(3) *"Urban roads" mean all public ways lying within the limits of the unincorporated urban place as described by the bureau of census tracts.*

(4) *"Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.*

The Committee Amendment to **HB 168** is as follows:

Amend printed copy of House Bill 168 page 1, line 18 by inserting before "*elimination*" the words "*lighting and the*", and before "*hazards*" the word "*other*", and by deleting "*of*" after "*hazards*" and inserting in lieu thereof "*such as*"; and on

page 1, line 19, by deleting "*crossing*" and inserting in lieu thereof "*crossings*"

HB 169, AN ACT relating to the distribution of certain motor truck registration fees among the counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 47.020 is amended to read as follows:

Thirty per cent (30%) of all revenue raised by the tax imposed by subsections (3) through (14)[(13)] of KRS 186.050 shall be evenly distributed among all the counties for the county road funds.

HB 393, AN ACT to revise and correct the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained within voting precincts New Hope-Melber and Harper.

(2) Second District: Graves County and that part of Calloway County contained in the voting precinct of Coldwater.

(3) Third District: That part of McCracken County contained in the City of Paducah.

(4) Fourth District: Livingston County and that part of McCracken County not contained in the First District or the Third District.

(5) Fifth District: Calloway County, except the voting precinct of Coldwater, and that part of Trigg County west of Kentucky Highway 139 and including the City of Cadiz.

(6) Sixth District: Lyon and Marshall Counties and Crittenden County except for voting precincts Marion 4, Marion 6, Rosebud 11, and Shady Grove 12.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasure Ridge, Utica, Snyder School, West Louisville, Curdsville, St. Joseph, Rome, Sorgo, Masonville, Stanley, North Town, South Town, Fields, Habit.

(8) Eighth District: That part of Trigg County east of Kentucky Highway 139 but excluding the City of Cadiz; that part of Christian County contained within the following voting precincts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25.

(9) Ninth District: That part of Christian County contained within the following voting precincts: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32; that part of Hopkins County contained within the following voting precincts: 14, 15, 16, 17.

(10) Tenth District: Hopkins County except for voting precincts: 14, 15, 16, 17.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara and Hebbardsville, and that portion of the county lying south of Kentucky Highway 416, beginning at its junction with U.S. 41A and proceeding eastward to its junction with Niagara precinct.

(12) Twelfth District: Caldwell and Webster Counties; that part of Crittenden County not included in the Sixth District; that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the City of Owensboro but excluding the following voting precincts: 4, 6, 7, 10, 11, 15, 17, 18, 19, 20, 32.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: 2, 3, 6, 8.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Hancock and Ohio Counties and that part of Butler County not contained within the Nineteenth District.

(18) Eighteenth District: Meade County and Breckinridge County except the voting precincts of McDaniels, Glen Dean.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Breckinridge County contained in voting precincts of McDaniels and Glen Dean; that part of Butler County included in the Census County Division of Jetson, bounded by Welch Creek, Blacklick School Road, State Highway 411, county line,

Green River, Woodbury city limits, Green River, Welch Creek; and including the cities of Morgantown and Woodbury; and including Census Enumeration District No. 8, bounded by Green River, Morgantown city limits, State Highway 403, Cool Spring Church Road, unnamed road, U. S. Highway 231, Muddy Creek and county line; that part of Hart County contained in voting precincts: 3, 13, 14, 16, 17.

(20) Twentieth District: That part of Warren County containing all of the City of Bowling Green excluding the voting precincts of Reels Garage, Octogan Inn, Green Meadows and Delefield but including the voting precincts of Miller's Bottled Gas, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of Harristown, Public School, West Door and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Larue County; that part of Hart County not contained in the Nineteenth District; that part of Marion County not contained in the Fifty-fourth District.

(25) Twenty-fifth District: That part of Hardin County contained in the voting precincts of Elizabethtown East, Elizabethtown West, Elizabethtown Northeast, Elizabethtown Northwest, Elizabethtown North, Helmwood Heights, Mantle, Valley Creek, City Park, Colesburg, Tunnel Hill, Helm, Chelf, Van Meter, South Dixie, Glendale, Nolin, Sonora, Upton, Melrose and White Mills, and that part of the Fort Knox Military Reservation that lies east of a line beginning at the intersection of the southern boundary of the Fort Knox Military Reservation and State Road 447, and extends northward along State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff North, Radcliff South, Radcliff West, Vine Grove North, Vine Grove South, Vine Grove West, Longview, Yates, Rineyville, Howe Valley, St. John, Cecilia, East View, Meeting Creek, and Long Grove and that part of the Fort Knox Military Reservation not included in the Twenty-fifth and Twenty-seventh Districts.

(27) Twenty-seventh District: That part of Hardin County not contained in the Twenty-fifth and Twenty-sixth Districts, that part of the Fort Knox Military Reservation whose southern Boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to State Road 447, thence northward on State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River and that part of Jefferson County contained in voting precincts C8, C18, C19, C23, C44, C53, C70 and C87 of C District of the County.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C31, C33, C40, C43, C45, C47, C56, C57, C58, C65, C66, C72, C73, C78, C79, C82, C90 and C91 of C District of the County.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C21, C30, C34, C39, C46, C50, C54, C55, C59, C60, C64, C67, C69, C71, C74, C75, C80, C81, C85, and C94 of C District of the county.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the third ward of the City of Louisville, and voting precincts B7, B10, B13, B14, B15, B18, B19, B21, B22, B24, B38, B42, B43, B48, B54, B58, B64 and B67 of B District of the county.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36 and 38 of the second ward of the City of Louisville; voting precincts A22, A36, A38, A39, A43, A50, A63 and A74 of A district of the county, and voting precincts B4, B5, B6, B9, B17, B27, B28, B35, B39, B45, B55, B56 and B68 of B District of the county.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 3, 4, 5, 6, 7, 9, 10, 13, 14, 20, 21, 23, 24, 25, 27, 28, 29, 30, 32 and 33 of the first ward; voting precincts 1, 2, 3, 4, 5 and 6 of the second ward; voting precincts 1 and 2 of the third ward of the City of Louisville, and voting precincts A2, A5, A18, A19, A26, A29, A34, A49, A51, A60 and A73 of A district of the county.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 23, 24, 27, 28, 30, 31, 32 and 33 of the second ward of the City of Louisville; voting precinct A 17 of A district of the county, and voting precincts B1, B2, B3, B29, B30, B31, B33, B34, B59 and B70 of B District of the county.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 11, 12, 16, 17, and 19 of the first ward, and voting precincts 7, 8, 9, 10, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the third ward, voting precinct 11 of the fifth ward of the City of Louisville, and voting precinct B16 of B district of the County.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 17 and 29 of the third ward, and voting precincts 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32, and 33 of the fourth ward, voting precincts 10 and 13 of the eighth ward of the City of Louisville, and voting precincts B8, B11, B12 and B32 of B district of the county.

(36) Thirty-sixth District: That part of Jefferson County containing voting precinct 15 of the first ward; voting precincts 13 and 16 of the Third ward; voting precincts 21 and 23 of the Fourth ward; voting precincts 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the fifth ward, voting precincts 9, 11, 12 and 14A of the eighth ward of the City of Louisville.

(37) Thirty-seventh District: That part of Jefferson County containing voting precinct 34 of the fourth ward, voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 29 of the sixth ward, and voting precincts 6, 8 and 9 of the seventh ward, voting precinct 16 of the eighth ward of the City of Louisville, and voting precincts C24 and C88 of C District of the County.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 27, 28, 30, 31, and 32 of the sixth ward, voting precincts 3A, 5, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the seventh ward of the City of Louisville.

(39) Thirty-ninth District: That part of Jefferson County containing voting precincts 1, 2 and 31 of the first ward, voting precincts 2, 3, and 4 of the fifth ward, voting precinct 5 of the sixth ward, voting precincts 1, 2, 3, 4, 5, 6, 7, 8 and 15 of the eighth ward, and voting precinct 21 of the ninth ward, voting precincts 3, 18, 19 and 27 of the tenth ward of the City of Louisville.

(40) Fortieth District: That part of Jefferson County containing voting precincts 2 and 4 of the seventh ward, voting precincts 17, 18, 19, 20 and 21 of the eighth ward, voting precincts 8, 10, 11, 12, 13, 14A, 15A, 16, 17 and 18 of the ninth ward, and voting precincts 22, 23, 24, 25 and 26 of the tenth ward of the City of Louisville, and voting precincts C9, C25, C27, C35, C51, C63 and C68 of C District of the County.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 28 of the tenth ward, voting precincts 1, 5, 9, 18, 19, 20 and 21A of the eleventh ward of the City of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7A, 9, 19 and 20 of the ninth ward, voting precincts 8, 10, 11, 12, 13, 14, 15, 16 and 17 of the eleventh ward, and voting precincts 21, 22, 23, 24 and 25 of the twelfth ward of the City of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 2, 3, 4, 6 and 7 of the eleventh ward, and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 12, 13, 14, 15, 16A, 17, 18, 19 and 20 of the twelfth ward of the City of Louisville.

(44) Forty-Fourth District: That part of Jefferson County containing voting precincts C1, C2, C3, C4, C10, C13, C15, C20, C26, C28, C29, C36, C37, C38, C41, C48, C49, C52, C62, C76, C77, C86, C92 and C93 of C district of the county.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B23, B63, and B66 of the B district of the county; voting precincts C12, C14, C16, C17, C22, C32, C42, C61, C83, C84 and C89 of C District of the county.

(46) Forty-sixth District: That part of Jefferson County containing voting precincts B20, B25, B26, B36, B37, B40, B41, B44, B46, B47, B49, B50, B51, B52, B53, B57, B60, B61, B62, B65 and B69 of B district of the county.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A4, A6, A8, A12, A13, A15, A16, A20, A21, A23, A24, A25, A27, A28, A31, A32, A33, A35, A37, A41, A42, A45, A46, A53, A58, A64, A68, A69, A71, A72, A77, A80 and A81 of A district of the county.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts A1, A3, A7, A9, A10, A11, A14, A30, A40, A44, A47, A48, A52, A54, A55, A56, A57, A59, A61, A62, A65, A66, A67, A70, A75, A76, A78 and A79 of A district of the county.

(49) Forty-ninth District: Bullitt and Spencer Counties.

(50) Fiftieth District: Nelson County; that part of Washington County not contained in the Fifty-fourth District; that part of Anderson County contained in voting precincts 9, 10, 11.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County not contained in the Fifty-third District.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County contained within the County Census Division of Eli bounded by: State Highway 80; county line, Lake Cumberland, Caney Creek, Caney Fork, Clear Fork, Dunbar Trail, Dunbar Road, West Wilson Road, State Highway 80, that part of Russell County contained within the County Census Division of Bryan bounded by: State Highway 92, Greasy Creek, Bethel Creek Fork, Blankenship Road, State Highway 55, Helen Road, State Highway 35, county line.

- (54) Fifty-fourth District: Boyle County; that part of Marion County contained in voting precincts 1, 2, 3, 7; that part of Washington County contained in voting precincts 5, 6, 7, 8, 9, 10.
- (55) Fifty-fifth District: Garrard and Mercer Counties; that part of Anderson County not contained in the Fiftieth District.
- (56) Fifty-sixth District: Jessamine and Woodford Counties.
- (57) Fifty-seventh District: Franklin County except for the voting precinct of Bridgeport No. 27.
- (58) Fifty-eighth District: Henry and Shelby Counties and that part of Franklin County contained within voting precinct Bridgeport No. 27.
- (59) Fifty-ninth District: Carroll, Gallatin, Oldham, and Trimble Counties.
- (60) Sixtieth District: Boone County.
- (61) Sixty-first District: Bracken, Grant and Owen Counties and Pendleton County except for the voting precincts of Bonar and Sandsuck.
- (62) Sixty-second District: Harrison and Scott Counties.
- (63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crestwood, Edgewood 1, 2 and 3; Elsmere 4; Erlanger 1, 2, 3, and 7; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2, and 3; Park Hills 1, 2 and 3; and Sandfordtown.
- (64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30, 40, 41, 42 and 43, Decoursey, Independence 1 and 2, Morningview, Nicholson, Oakridge, Piner, Richardson, Taylor Mill 1 and 2, Visalia, Whites Tower, Winston Park.
- (65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 12, 14, 15, 17, 18, 19, 20, 20A, 23, 24, 25, 31, 33, 34, 35, 36, and 39.
- (66) Sixty-sixth District: That part of Kenton County containing the following voting precincts: Covington 6, 7, 10, 10A and 13, Bromley, Crescent Springs, Elsmere 1, 2, and 3, Erlanger 4, 5, 6, 8 and 9, Ludlow 1, 2, 3, 4 and 5, Villa Hills 1 and 2.
- (67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the City of Newport, the City of Wilder, the City of Southgate except voting precinct Southgate B; that part of Kenton County containing voting precincts Covington 1, 3.
- (68) Sixty-eighth District: That part of Campbell County containing all the voting precincts in the City of Bellevue; all the voting precincts in the City of Dayton; voting precincts A, B, C, D, E, G, L and P in the City of Fort Thomas and the voting precincts of Woodlawn, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs and Melbourne.
- (69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County contained in the voting precincts of Bonar and Sandsuck.
- (70) Seventieth District: Mason and Robertson Counties; that part of Fleming County not in the Seventy-fourth District; that part of Rowan County contained in Census Enumeration District 3 bounded by Bath County line, Triplett Creek, Morehead City limits, Kentucky Highway 32, Fleming County line.
- (71) Seventy-first District: Morgan and Menifee Counties; that part of Rowan County not contained in the Seventieth District; the Northern part of Wolfe County bounded by Kentucky Highway 15, Campton City limits, Kentucky Highway 746, Mountain Parkway Extension, Morgan County line, Menifee County line, Powell County line, including the City of Campton.
- (72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.
- (73) Seventy-third District: Clark and Powell Counties.
- (74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties, and that part of Fleming County contained in Census Enumeration District 9 bounded by county line, Three Mile Run, State Highway 1325 (Three Mile Road), Cane Road, State Highway 1123 (Peck's Ridge Road), State Highway 57, Craitown Road, and State Highway 32 westward to county line.
- (75) Seventy-fifth District: That part of Fayette County contained within the following described boundaries: Beginning at the intersection of South Broadway and Mason Headley Road; then with the center line of South Broadway in a northeastwardly direction to the intersection of South Broadway and Virginia Avenue; then in a northwestwardly direction with the western boundary of the Kentucky Trotting Horse Breeders Association property (Red Mile) to the Versailles Pike across from the intersection of Forbes Road; then in a generally northwardly direction with the center line of Forbes Road to its intersection with the Old Frankfort Pike to its intersection with Leestown Pike (West Main Street); then in a southeastwardly direction with the center line of West Main Street to its intersection with Newtown Pike; then in a northwestwardly direction with the center line of Newtown Pike to its intersection with West Fourth Street; then in a southeastwardly direction with the center line of West Fourth Street to the Louisville and Nashville Railroad Company crossing; then in a northeastwardly direction with the center line of the right-of-way of the Louisville and Nashville Railroad Company to its crossing of the Russell Cave Pike (Ky 353); then in a

generally southwardly direction along the center line of the Russell Cave Pike to Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southeastwardly direction with the center line of Maple Avenue to its intersection with East Seventh Street and in a southeastwardly direction along the center line of East Seventh Street to its intersection with Shropshire; then in a southwestwardly direction with the center line of Shropshire Avenue to East Sixth Street and in a northwestwardly direction with the center line of East Sixth Street to its intersection with Pemberton; then in a southwestwardly direction with the center line of Pemberton to its intersection with East Fifth Street; then in a southeastwardly direction with the center line of East Fifth Street to its intersection with Race Street and in a southwestwardly direction with the center line of Race Street to its intersection with East Third Street; then in a southeastwardly direction with the center line of East Third Street to its intersection with Walton Avenue; then in a southwestwardly direction with the center line of Walton Avenue to its intersection with East Main Street and in a northwestwardly direction with the center line of East Main Street to its intersection with Ransom Avenue; then in a southwestwardly direction with the center line of Ransom Avenue to its intersection with East High Street and in a generally southwardly direction with the center line of East High Street to its intersection with Sunset, then in a northwestwardly direction with the center line of Sunset to Lafayette Avenue and continuing along the center line of Columbia (Sunset) to its intersection with Woodland Avenue and in a southwestwardly direction with the center line of Woodland Avenue to its intersection with Huguelet and in a northwestwardly direction along the center line of Huguelet to its intersection with Rose Street and in a southwestwardly direction with the center line of Rose Street to its intersection with South Limestone; then continuing in a southwestwardly direction along the center line of South Limestone to its intersection of Waller Avenue and then in a northwestwardly direction along the center line of Waller Avenue to its intersection with South Broadway and the Mason Headley Road, the point of beginning.

(76) Seventy-sixth District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of East Third Street and Race Street; then in a southeastwardly direction along the center line of East Third Street to a point opposite the northwest property line of Richmond Avenue; then in a southwestwardly direction with said property line of Richmond Avenue to East Main Street and then in a southeastwardly direction along the center line of East Main Street to its intersection with Henry Clay Boulevard; then in a northeastwardly direction with the center line of Henry Clay Boulevard to its intersection with Meniffee Avenue and in a southeastwardly direction with the center line of Meniffee Avenue to a point in the southeast property line of Holiday Road; then with said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks; then in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road (Ky 4); then in a generally northwardly direction along the center line of the New Circle Road to its intersection with the Winchester Pike (US 60); then in a generally eastwardly direction with the center line of the Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to its overpass on the Russell Cave Pike (Ky 353); then in a southwestwardly direction with the center line of Russell Cave Pike to its intersection with the New Circle Road; then in a southeastwardly direction with the center line of New Circle Road to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction with the center line of North Limestone to its intersection with Carlisle Avenue; then in a southeastwardly direction along the center line of Carlisle Avenue to its intersection of Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southwestwardly direction with the center line of Maple Avenue to East Seventh Street; then in a southeastwardly direction along the center line of East Seventh Street to Shropshire; then in a southwestwardly direction along the center line of Shropshire to East Sixth Street; then in a northwestwardly direction along the center line of East Sixth Street to Pemberton; then in a southwestwardly direction the center line of Pemberton to East Sixth Street; then in a southeastwardly direction with the center line of East Fifth Street to Race Street; then in a southwestwardly direction along the center line of Race Street to its intersection with East Third Street, the point of beginning.

(77) Seventy-seventh District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of the Versailles Road (US 60) and the New Circle Road (Ky 4); then with the New Circle Road in a generally northeastwardly direction to the following intersections: Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike and North Broadway to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction along the center line of North Limestone to Carlisle Avenue; then in a southeastwardly direction with the center line of Carlisle Avenue to Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue and in a northwestwardly direction with the center line of Louden Avenue to its intersection with Russell Cave Pike and in a generally northwardly direction with the center line of the Russell Cave Pike to the Louisville and Nashville Railroad crossing; then in a southwestwardly direction with the right-of-way with the Louisville and Nashville Railroad to West Fourth Street; then in a northwestwardly direction along the center line of West Fourth Street to the Newtown Pike and in a southwestwardly direction

the center line of the *Newtown* [Newton] Pike to West Main Street; then in a northwestwardly direction with West Main Street (Leestown Pike) to Forbes Road; then in a southwestwardly direction the center line of Forbes Road to the Versailles Road and across the Versailles Road and along the western property line of the Kentucky Trotting Horse Breeders Association (Red Mile) to South Broadway and in a southwestwardly direction along the center line of South Broadway to Clays Mill Road and continuing in a southwestwardly direction along the center line of Clays Mill Road to Longview Drive; then in a northwestwardly direction along the center line of Longview Drive to the Harrodsburg Road; then in a northeastwardly direction along the center line of the Harrodsburg Road to the Lane Allen Road and in a northwestwardly direction along the center line of Lane Allen Road to Garden Springs Drive; then in a southwestwardly direction along the center line of Garden Springs Drive to Cypress Drive; then in a southeastwardly direction along Cypress Drive to Poppy Lane; then in a southwestwardly direction along a line extended from the end of Poppy Lane to the point opposite Aster Road and in a southeastwardly direction along a line extending from the end of Aster Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to the New Circle Road and in a northwestwardly direction along the center line of New Circle Road to a point opposite the center line of Lansill Road and in a northeastwardly direction along the center line of Lansill Road to a point on the Lane Allen Road; then continuing in a northeastwardly direction along the center line of Traveller Road to the northwest property line of Antietam Road; then in a generally northwardly direction along the line between the rear property lines of Traveller Road and Alexandria Drive to the Parkers Mill Road; then continuing in a generally northwardly direction along the center line of the Parkers Mill Road to Versailles Road; then in a westwardly direction along the center line of Versailles Road to the New Circle Road, the point of beginning.

(78) Seventy-eighth District: That part of Fayette County contained within the following boundaries: Beginning on Versailles Pike (US 60) at the Woodford County line; then eastwardly with the center line of the Versailles Pike to the intersection with the New Circle Road, then continuing along the Versailles Pike to Parkers Mill Road; then in a generally southwardly direction along the center line of Parkers Mill Road and continuing in a southerly direction along the rear property lines of Traveller Road and Alexandria Drive to the northwestwardly property line of Antietam Road and in a southwestwardly direction with said property line of Antietam Road to the center line of Traveller Road and with the center line of Traveller Road to the Lane Allen Road; then in a southwestwardly direction to the center line of Lansill Road, continuing along the center line of Lansill Road and on to New Circle Road and in a southeastwardly direction along the center line of the New Circle Road to the Harrodsburg Road and in a northeastwardly direction along the center line to the Harrodsburg Road to a point opposite Aster Road and in a northwestwardly direction along a line to a point opposite Poppy Lane; then in a northeastwardly direction along a line to the end of Poppy Lane and continuing on the center line of Poppy Lane to Cypress Drive; then in a northwestwardly direction along the center line of Cypress Drive to Garden Springs Drive; then in a northeastwardly direction along the center line of Garden Springs Drive to Lane Allen Road; then in a southeastwardly direction along the center line of Lane Allen Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to Longview Drive; then in a southeastwardly direction along the center line of Longview Drive to Clays Mill Road; then in a northeastwardly direction along the center line of Clays Mill Road to Harrodsburg Road continuing in a northeastwardly direction along the center line of the Harrodsburg Road to its intersection with Waller Avenue; then in a southeastwardly direction along the center line of Waller Avenue to South Limestone; then in a northeastwardly direction along the center line of North Limestone to Rose Street continuing in a northeastwardly direction along the center line of Rose Street to Huguelet, then in a southeastwardly direction along the center line of Huguelet to Woodland Avenue; then in a northeastwardly direction along the center line of Woodland Avenue to Columbia Avenue; then in a southeastwardly direction along the center line of Columbia Avenue to Lafayette Avenue and continuing along the center line of Sunset (Columbia Avenue) to the Bates Creek Pike; then in a generally southerly direction along the center line of Bates Creek Pike to Lansdowne Drive; then in a southwestwardly direction along the center line of Lansdowne Drive to Zandale Drive; then in a northwestwardly direction along the center line of Zandale Drive to South Limestone (Nicholasville Pike); then in a southwestwardly direction along the center line of Nicholasville Pike to the Wilson-Downing Road; then in a southeastwardly direction along the center line of the Wilson-Downing Road to the Bates Creek Pike (Ky 1974); then in a generally southerly direction along the center line of the Bates Creek Pike to the Fayette County line; then along the Fayette County line in a generally northwestwardly direction to the Versailles Pike (US 60), the point of beginning.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following boundaries: Beginning at the Kentucky River at the landing of Bates Creek Pike; then in a generally northwestwardly direction along the center line of the Bates Creek Pike to the Wilson-Downing Road; then continuing in a northwestwardly direction along the center line of the Wilson-Downing Road to the Nicholasville Road and in a northeastwardly direction along the center line of the Nicholasville Road (South Limestone) to Zandale Drive; then in a southeastwardly direction along the center line of Zandale Drive to Lansdowne Drive; then in a northeastwardly direction along the center line of Lansdowne Drive to Bates

Creek Pike; then in a generally northwardly direction along the center line of Tates Creek Pike (East High Street) to Ransom Avenue and in a northeastwardly direction along the center line of Ransom Avenue to East Main Street and in a southeastwardly direction along the center line of East Main Street to Walton Avenue, then in a northwestwardly direction along the center line of Walton Avenue to East Third Street; then in a southeastwardly direction along the center line of East Third Street to a point opposite the northwestern property line of Richmond Avenue; then in a southwestwardly direction along said property line of Richmond Avenue to East Main Street and in a southeastwardly direction with the center line of East Main Street to Henry Clay Boulevard and in a northeastwardly direction with the center line of Henry Clay Boulevard to Menifee Avenue and in a southeastwardly direction along the center line of Menifee Avenue to a point in the southeastern property line of Holiday Road; then in a northeastwardly direction along said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks and in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road; then in a generally northerly direction along the center line of the New Circle Road to the Winchester Pike (US 60) and in a generally eastwardly direction along the Winchester Pike to the Interstate 64-75 interchange; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to the Bryan Station Pike (Ky 956) and in a northwestwardly direction along the center line of the Bryan Station Pike to the Muir Station Pike; then in a southeastwardly direction along center line of the Muir Station Pike to the Briar Hill Pike; then in a northeastwardly direction along the center line of the Briar Hill Pike to the Bourbon County line; then following the Fayette County line in a generally southerly direction to the Kentucky River and along the Kentucky River to the Tates Creek Pike, the point of beginning.

(80) Eightieth District: Lincoln and Rockcastle Counties and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 27, Good Hope 28 and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Eighty-fourth District.

(82) Eighty-second District: Whitley County; that part of McCreary County contained within the County Census Division of Pine Knot bounded by: Blue Heron Road extended, Blue Heron Road, State Highway 742, U. S. Highway 27, Laurel Creek, Marsh Creek, Duck Run, county line, state line, South Fork Cumberland River; that part of McCreary County contained within the County Census Division of Cooperative bounded by: South Fork Cumberland River, [South Fork Cumberland River,] state line, county line; that part of McCreary County contained within the County Census Division of Stearns bounded by: Lick Creek, Bridge Fork, Laurel Creek, [Laurel Creek,] U. S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended, South Fork Cumberland River.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District.

(84) Eighty-fourth District: Estill and Jackson Counties and that part of Madison County contained in the City of Berea and in voting precincts 19 and 20.

(85) Eighty-fifth District: Laurel County and that part of McCreary County not contained in the Eighty-second District.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts 1, 7, 8, 12, 14, 15.

(87) Eighty-seventh District: Bell County and that part of Harlan County contained in voting precinct Pathfork 41.

(88) Eighty-eighth District: That part of Harlan County not contained in the Eighty-seventh and Ninetieth Districts.

(89) Eighty-ninth District: Breathitt and Lee Counties and that part of Wolfe County not contained in the Seventy-first District, and that part of Perry County contained in Census County Division of Big Creek, Blue Diamond Buckhorn, Yerkes-Busy and Krypton lying north and east of the following boundary: Leslie County line, Big Creek-Right Fork Divide, Buffalo Fork Big Creek-Buffalo Creek Divide, Brown's Fork-Buffalo Creek Divide, Messer Branch-Davidson Branch Divide, Happy Hollow, Hazard City limits, Walker Branch-North Fork Kentucky River Divide; Laurel Fork-Lost Creek-First Creek Divide, Sixteenmile Creek-Lower Second Creek Divide, Lost Creek, Grapevine Creek Divide, Tenmile Creek-Grapevine Creek Divide, Breathitt County line, Owsley County line, and Clay County line.

(90) Ninetieth District: Leslie and Owsley Counties, and that part of Harlan County contained in the voting precincts of Pine Mountain-Big Laurel No. 11, Bledsoe No. 12, New Baxter No. 9, Old Baxter No. 8, School House Loyall No. 35, City Hall Loyall No. 34, Rio Vista No. 36, and Putney No. 10, and that part of Clay County contained in voting precincts 2, 3, 4, 5, 6, 9, 10, 11, 13.

(91) Ninety-first District: That part of Perry County not contained in the Eighty-ninth district, and that part of Letcher County not contained in the Ninety-second district.

(92) Ninety-second District: Knott and Magoffin Counties; that part of Letcher County contained in Census County Division of Blackey, Colson, Fleming-Neon, and Census Enumeration Districts 21 and 22, lying northwest of the following boundary: Perry County line, Turkey Creek-Defeated Creek Divide, Whittaker Branch Road, Tolson Branch Road, Kentucky Highway 588, Mills Branch Road, Mills Branch Spur Road, Rockhouse Creek-Smoot Creek Divide, Kentucky Highway 15, Smoot Creek-Dry Fork Divide,

Rockhouse Creek-North Fork Kentucky River Divide, Millstone Creek Road, Kentucky Highway 803, State Highway 113, North Fork Kentucky River, U. S. Highway 119, Seco City limits, U. S. Highway 119, Jenkins City limits, McRoberts City limits, Fleming City limits, and from Hemphill-Jackhorn P.O. due north to Pike County line, including the cities of Seco and Fleming.

(93) Ninety-third District: That part of Pike County contained in voting precincts Caney 20, Yeager 21, Old Shelby 22, Long Fork 23, Dorton 24 and Elmwood in District 2; Marrowbone 30, Rockhouse 31, Henry Clay 32, Hellier 33, Ashcamp 34 and Rasnick 35 in District 3; Millard 40, Lick Creek 42, Grapevine 43, and Garden Village 46 in District 4; Raccoon 51 in District 5; Peter 70, Blackberry 71, Knox 72, Freeburn-Cline 73, Wolford 74, Bluesprings 75, Majestic 76 in District 7; Mouthcard 80, Upper Elkhorn 81, Elkhorn City Hall 82, Belcher 83, Feds Creek 84, Looney 85 in District 8.

(94) Ninety-fourth District: That part of Pike County not contained in the Ninety-third District; that part of Floyd County not contained in the Ninety-fifth District.

(95) Ninety-fifth District: Floyd County except for the voting precincts Herold, Toler Creek, Antioch, Branhams Creek, Head of Mud, Tickey.

(96) Ninety-sixth District: Carter and Lewis Counties.

(97) Ninety-seventh District: Johnson and Martin Counties, and that part of Lawrence County contained in voting precincts 7, 9, 10, 11, 12, 13 and 14.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-ninth District.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County contained in voting precincts 1, 2, 3, 4, 5, 6, and 8; that part of Boyd County containing the following voting precincts: Court House 1, City Building 2, Argo 3, Hampton 4, Rockdale 5, England Hill 7, Durbin 8, East Fork 9, Cannonsburg 10, Princess 11, Garner 12, Hoods Creek 13, Fairview 14, Buckley 15, Westwood 16, Millseat 17; that part of Greenup County contained in Census Enumeration District 10, known as Bellefonte City, bounded by county line, Country Club Drive (State Highway 693) to its junction with State Highway 1725, then southeasterly to the county line.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District.

Section 2. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 and 6.031 to a city, ward, district, boundary, precinct, road, highway, street, stream or other line means as they existed on January 4, 1972.

Section 3. KRS 7.115 is amended to read as follows:

The chairmen and members of the interim subcommittees of the Legislative Research Commission may, subject to the approval of the commission, appear and testify before committees of the Congress of the United States on all matters involving Federal-State relations and on matters which concern the authority or interests of the states. The chairmen and members of the interim subcommittees shall receive the same travel expenses and compensation for appearing before Congressional committees as they receive for attending meetings of their respective interim subcommittees.

Section 4. KRS 18.110 is amended to read as follows:

As used in KRS 18.110 to 18.360 [18.340], unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employee or group of officers or employees authorized by law to make appointments;

(2) "Board" means the personnel board created by KRS 18.160;

(3) "Certification" means the referral of the name of a qualified prospective employee by the commissioner of personnel on request of an appointing officer for selection to a position in the classified service;

(4) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(5) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18.140; a "classified position" is a position in the classified service;

(6) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(7) "Department" means the department of personnel provided for in KRS 18.160 unless the context indicates otherwise;

(8) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18.110 to 18.360 [18.340] and who has qualified to be placed on a register;

(9) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18.110 to 18.360 [18.340] to a temporary position by reason of a governmental emergency recognized by the governor, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(10) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(11) "Position" means an office or employment in an agency (whether part-time, full-time, temporary or permanent, occupied or vacant) involving duties requiring the services of one (1) person;

(12) "Probation" means the period of service following appointment to any position under KRS 18.110 to 18.360 [18.340] which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18.210. An employee serving the probationary period is known as a "probationary employee";

(13) "Promotion" means a change of rank of an employee from a position of one (1) class to a position of another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(14) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18.110 to 18.360 [18.340] without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18.210;

(15) "Re-employment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Re-employment lists are used as provided in KRS 18.210;

(16) "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, which shall be used for selection for promotion or original appointment to a position in the classified service;

(17) "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employee in the classified service;

(18) A "temporary position" is one created for a defined period of time not to exceed six (6) months in any event and not renewable; a "temporary employee" is one (1) appointed to such temporary position, either from an existing pertinent eligible list or without reference to an eligible list. A "seasonal position," although temporary in duration in the foregoing sense coincides in duration with a particular season or seasons of the year and may recur regularly from year to year; a "seasonal employee" is one (1) appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(19) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service.

Section 5. KRS 18.120 is amended to read as follows:

The general purpose of KRS 18.110 to 18.360 [18.340] is to establish for the state a system of personnel administration based on merit principles and scientific methods governing the recruitment, examination, appointment, promotion, transfer, lay-off, removal, discipline, and welfare of its civil employees and other incidents of state employment. All appointments and promotions to positions in the state civil service shall be made solely on the basis of merit and fitness, to be ascertained by competitive examination, except as hereinafter specified. The general assembly finds that this chapter is necessary in order to improve the morale and motivation of state employees and to gain the maximum utilization of human resources in order to provide better service to the citizens of this commonwealth.

Section 6. KRS 18.130 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 [18.340] shall apply shall include all employees of the department of fish and wildlife resources, and all other positions in the state civil service now existing or hereafter established, except as provided in KRS 18.140.

(2) (a) The department of personnel and departments, commissions, boards or agencies presently covered by merit systems shall come under the provisions of KRS 18.110 to 18.340 as of July 1, 1960.

(b) Each head of a department, commission, board or agency shall certify to the governor at any time after July 1, 1960, but no later than July 1, 1961, that his department, commission, board or agency is ready to come under the provisions of KRS 18.110 to 18.340. Upon receipt of such certification, the governor shall approve said certification and so inform the personnel board.

Section 7. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 [18.340] shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employees of the general assembly including the employees of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the governor and the lieutenant governor;

(e) Heads of departments, including those appointed by boards and commissions except as provided in KRS 18.130;

(f) One (1) principal assistant or deputy for each head of a department except as provided in KRS 18.130;

(g) One (1) additional principal assistant or deputy, or other major assistants as may be necessary for making and carrying out policy, for each head of a department in those instances in which the nature of the functions, size or complexity of the agency involved are such that the personnel board may approve such an addition or additions on petition approved by the commissioner of personnel;

(h) Division directors, except as provided in KRS 18.130, subject to the provisions of KRS 18.150;

(i) Physicians employed as such by the state tuberculosis hospital commission and the department of mental health;

(j) One (1) private secretary for each head of a department and for each principal assistant or deputy not included in the classified service;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employees of such institutions, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.360 [18.340] applicable to faculty members and staff; and officers, teachers, and employees of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor;

(o) Unskilled laborers, truck drivers and other light equipment operators, excepting institutional employees of the unskilled laborer category, and seasonal and emergency employees. The personnel board shall determine the positions within these categories and shall promulgate rules relating thereto;

(p) Officers and members of the state militia;

(q) Peace officers in the department of public safety, Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers.

(2) Nothing in KRS 18.110 to 18.360 [18.340] is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Provided, however, that nothing herein is intended or shall be construed to affect any position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employees with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 8. KRS 18.150 is amended to read as follows:

It is further provided that the responsible departmental, board, commission or agency head shall at the time at which he elects to come under the provisions of KRS 18.110 to 18.360 [18.340], certify to the personnel board the positions of those division directors or heads under their jurisdiction whose duties are nonpolicy making together with a sufficient statement of their duties to enable the board to determine whether or not, as a matter of fact, such duties are nonpolicy making in their nature. He shall, at any time subsequent to coming under the provisions of KRS 18.110 to 18.360 [18.340] certify to the personnel board additional division directors or heads whose duties are nonpolicy making. At the time of certification notice thereof shall be given to the interested division director or head in the form of a copy of the statement certifying the duties of his office. The board may conduct such hearings as it may deem necessary, and shall conduct hearings pursuant to the administrative provisions of KRS 18.270 in the event of a difference of opinion between the certifying officer and the interested division director or head, before entering its findings of fact and an order either classifying or denying classification to such position. Either the certifying officer or the division director or head may appeal the findings of fact and the final order of the board by initiating action in the Franklin Circuit Court pursuant to the provisions of KRS 418.040 et seq.

Section 9. KRS 18.160 is amended to read as follows:

(1) There shall be created by KRS 18.110 to 18.360 [18.340] a department of personnel headed by a commissioner who shall be appointed by the Governor. There shall also be created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the commonwealth. The personnel board shall consist of five (5) members appointed by the governor for four (4) year terms, and the governor shall select citizens of Kentucky known for their devotion to the merit principle in government employment and the improvement of management and professional development of the public service of the state. No member of the personnel board shall be otherwise an employee or officer of the commonwealth except faculty or staff members of the University of Kentucky or the state universities or colleges. No member of the

personnel board shall be a member of any local, state, or national committee of a political party, or an officer or member of a committee in any partisan political club or organization, or shall be or have been a candidate for any elective office within one (1) year prior to appointment. Members of the personnel board shall receive compensation of forty dollars (\$40.00) per diem and reimbursements of travel expenses and other special expenses for each called meeting of the board which they attend. If any board member misses three (3) consecutive meetings for any reason other than illness or temporary absence from the commonwealth, he shall be deemed to have vacated his office and the governor shall proceed forthwith to appoint a successor to his unexpired term.

(2) The members of the first board shall be appointed by the governor within thirty (30) days of July 1, 1960. Of the members first appointed, one (1) shall serve until January 1, 1961, one (1) until January 1, 1962, one (1) until January 1, 1963, and two (2) until January 1, 1964. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.

(3) Members of the personnel board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearing and findings of fact shall be filed with the secretary of state.

(4) The personnel board shall annually elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the commissioner of personnel. At least one (1) meeting shall be held each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the commissioner of personnel at least three (3) days in advance of the meeting. Three (3) voting members shall constitute a quorum for the transaction of business. The personnel board shall keep records and minutes of its business and official actions, with the commissioner of personnel serving as secretary. Such minutes shall be public records open to public inspection, subject to such reasonable rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it and to the commissioner of personnel.

Section 10. KRS 18.170 is amended to read as follows:

It shall be the duty of the personnel board to:

(1) Adopt comprehensive rules consistent with the provisions of KRS 18.110 to 18.360 [18.340], and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(2) Present to the governor, through the commissioner of finance, for his adoption such classification and compensation plans for the state service, provision for vacation, sick and special leave and hours of work, together with rules for their administration, as recommended by the commissioner of personnel and the board after a thorough survey of the personnel and departmental organizations included in such plan or plans;

(3) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18.110 to 18.360 [18.340], and to require observance of its provisions and the rules and regulations made pursuant thereto; and to make such investigation as may be requested by the general assembly or the governor and to report thereon;

(4) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, and from officers or employees serving under the personnel system created by KRS 18.110 to 18.360 [18.340], as hereinafter provided, subject to the procedural rules which the board may adopt pursuant to the provisions of this section;

(5) Promote public understanding of merit principles in government service;

(6) Make annual reports to the governor and biennial reports to the general assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the governor and the commissioner of personnel with respect to the administration of the personnel system created by KRS 18.110 to 18.360 [18.340];

(8) Consider and act on such matters as may be referred to the board by the commissioner of personnel; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the commissioner of personnel in fostering the interest of institutions of learning and of civic, professional, and employe organizations in the improvement of personnel standards in the state service.

Section 11. KRS 18.190 is amended to read as follows:

The commissioner of personnel shall be the executive and administrative head of the department of personnel and shall supervise and control all examinations and work of the department. He shall act as the personnel board's adviser on all matters pertaining to the civil service of this state. Within the limitations of the budget, the commissioner of personnel shall appoint and supervise such staff as may be needed in the

department of personnel to carry out the purposes of KRS 18.110 to 18.360 [18.340]. It shall be the duty of the commissioner of personnel, with the aid of his staff to:

- (1) Attend all meetings of the personnel board;
- (2) Prepare and recommend to the personnel board rules and regulations for the purpose of carrying out the provisions of KRS 18.110 to 18.360 [18.340]. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment;
- (3) Establish general procedures for personnel recruitment, for certification, for improving the efficiency of employed personnel, and for the separation of employees deemed unsatisfactory or excessive by agency or department heads subject to the provisions of KRS 18.110 to 18.360 [18.340].
- (4) Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;
- (5) Prepare and maintain a record of all employees, showing for each employee his name, post office address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;
- (6) Prepare, in accordance with the provisions of KRS 18.110 to 18.360 [18.340] and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
- (7) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18.110 to 18.360 [18.340];
- (8) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18.110 to 18.360 [18.340] and rules and regulations prescribed thereunder;
- (9) Prepare, in cooperation with appointing authorities and others, programs for appraising employee work performance and prepare, in cooperation with the several departments of the commonwealth in the development of programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the commonwealth, and make available the facilities of the department of personnel to this end;
- (10) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for herein;
- (11) Present, in accordance with the provisions of KRS 45.070, budget estimates for the support of the personnel system created by KRS 18.110 to 18.360 [18.340];
- (12) Make a report and submit the same to the personnel board and to the governor not later than October first of each year; and
- (13) Discharge such other duties as are imposed upon him by KRS 18.110 to 18.360 [18.340], or by the board. The commissioner of personnel on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

Section 12. KRS 18.210 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the personnel board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

- (1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. Any employee affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;
- (2) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the commissioner of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For the granting of appropriate preference in original entrance examinations to qualified persons who have been members of the armed forces of the United States in time of war, and who were honorably discharged. Such preference shall be in the form of points added to the final passing grades of such persons on original entrance examinations, Provided That they otherwise qualify and are entitled to appear on the list of those eligible for appointment. The preference may be as much as five (5) points for nondisabled persons, and as much as ten (10) points for persons currently receiving compensation from the United States Veterans' Administration for war-service-incurred disabilities certified as compensable. The rank of such persons on the eligible list shall then be determined on the basis of their augmented rating;

(5) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(6) For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(7) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(8) For the appointment of a person whose score is included in the three (3) highest scores earned on the examination;

(9) For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. The appointing authority shall, within thirty (30) days prior to the expiration of an employee's probationary period, notify the commissioner in writing whether the probationary employee is recommended for permanent status. Only if the appointing authority certifies to the satisfactory nature of the probationary employee's services, shall permanent status be conferred;

(10) For emergency employment for not more than thirty (30) days with or without examination, with the consent of the commissioner;

(11) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed, except during the first year after July 1, 1960 in order to avoid stoppage of orderly conduct of the business of the commonwealth;

(12) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(13) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(14) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employees and for the use of such methods of appraisal in personnel actions;

(15) For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employees so laid off, giving consideration in both lay-offs and re-employment to qualifications, performance records, conduct and seniority in service;

(16) For imposition as disciplinary measures of a fine of not more than ten (10) days' pay or for suspension from the service without pay for not longer than thirty (30) days;

(17) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

- (18) For establishment of a plan for resolving employe grievances and complaints;
- (19) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170 (2);
- (20) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;
- (21) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;
- (22) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.360 [18.340], as may be proper and necessary for its enforcement.

Section 13. KRS 18.220 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the governor proposed rules for the unclassified service persons in positions enumerated in paragraphs (f), (g), (h), (i), (j), and (o) of subsection (1) of KRS 18.140. Such rules shall be approved by the governor and promulgated according to KRS chapters 12 and 13. The rules shall provide:

- (1) For the preparation, maintenance and revision of a position classification plan for all positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;
- (2) For a pay plan for all employes in the unclassified service, after consultation with appointing authorities and the commissioner of finance, and taking into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the commissioner of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;
- (3) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;
- (4) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);
- (5) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(6) For establishing the physical requirements and obtaining proof of meeting such requirements of persons applying for unskilled laborer positions outside the classified service;

(7) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.360 [18.340], as may be proper and necessary for its enforcement.

Section 14. KRS 18.230 is amended to read as follows:

All officers and employes of the commonwealth and of all its municipalities and political subdivisions shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture for any examination, hearing, or investigation authorized by KRS 18.110 to 18.360 [18.340]. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

Section 15. KRS 18.240 is amended to read as follows:

(1) All officers and employes of the commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of KRS 18.110 to 18.360 [18.340] and the rules, regulations, and orders thereunder. All officers and employes shall furnish any records or information pertaining to the administration of KRS 18.110 to 18.360 [18.340] which the commissioner may request. The commissioner or the board may require the attorney general to institute and maintain such legal action as the commissioner or the board may consider necessary or appropriate to secure compliance with KRS 18.110 to 18.360 [18.340] and the rules and orders thereunder.

(2) The commissioner of finance may review and approve all proposed position establishments and abolishments. Reclassifications and reallocations may also be reviewed and approved by the commissioner of finance on the basis of the availability of funds.

Section 16. KRS 18.250 is amended to read as follows:

As of July 1, 1960, all hiring for the classified service shall be on the basis of competitive examinations and certification by the personnel department in accordance with the provisions of KRS 18.110 to 18.360

[18.340].

Section 17. KRS 18.260 is amended to read as follows:

(1) No disbursing or auditing officer of the commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the commissioner, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of KRS 18.110 to 18.360 [18.340] and the rules, regulations, and orders thereunder. The commissioner may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The commissioner may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without the further certification of the commissioner.

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of KRS 18.110 to 18.360 [18.340], rule, regulation or order thereunder. Any sum paid contrary to any provision of KRS 18.110 to 18.360 [18.340] or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the treasury.

(3) Any person appointed or employed in contravention of any provision of KRS 18.110 to 18.360 [18.340] or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employee or employees, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employee shall be reimbursed by the commonwealth at any time for any sum paid to such person on account of such services.

(4) If the commissioner wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in the courts to compel the commissioner to certify such payroll voucher or account.

Section 18. KRS 18.280 is amended to read as follows:

The personnel board, each member of the personnel board, and the commissioner shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by KRS 18.110 to 18.360 [18.340]. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor.

Section 19. KRS 18.300 is amended to read as follows:

(1) Subject to the approval of the personnel board the commissioner may enter into agreements with any municipality or other political subdivision of the commonwealth to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the commonwealth are hereby authorized to enter into such agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18.110 to 18.360 [18.340].

(3) The commissioner may, upon the request of the commissioner of health and upon the approval of the personnel board, furnish merit system services to "local" departments of health.

Section 20. KRS 18.320 is amended to read as follows:

(1) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of KRS 18.110 to 18.360 [18.340] or in any manner commit or attempt to commit any fraud preventing the impartial execution of KRS 18.110 to 18.360 [18.340] and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employee of the department, examiner, or other person shall defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, or appointment under KRS 18.110 to 18.360 [18.340], or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

Section 21. KRS 18.330 is amended to read as follows:

(1) Appropriations shall be made from the general expenditure fund to the department of personnel to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards or agencies which receive their sole support from the general expenditure fund.

(2) The commissioner shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board or agency which receives support from sources other than the general expenditure fund, except the department of fish and wildlife resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employees in the service of such department, commission, board or agency and the quarterly average number of employees in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(3) All departments, commissions, boards or agencies which receive support from other than the general expenditure fund, except the department of fish and wildlife resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering KRS 18.110 to 18.360 [18.340] and shall remit such shares quarterly to the department of personnel in the manner provided by law.

(4) The department is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of KRS 18.110 to 18.360 [18.340].

Section 22. KRS 18.340 is amended to read as follows:

The personnel board and the commissioner shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18.110 to 18.360 [18.340].

Section 23. KRS 25.172 is amended to read as follows:

Upon the sworn application of any fiduciary for appointment, as required by KRS 395.015, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of KRS 25.175 through KRS 25.215 and may dispense with the requirements of a surety for *the* [he] fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which said claims and debts have been provided for; that all inheritance, estate or similar death taxes have been paid and a duplicate or photo copy of such tax releases shall be attached, if available; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his share. An informal settlement may be filed at any time after the period for filing claims against decedent's estate has elapsed, subject to the requirements of time for filing settlements as set out in KRS 25.175. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and his surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required by KRS 25.195, nor shall the court be compelled to inquire into detailed items of income or disbursements.

Section 24. KRS 29.390 is amended to read as follows:

(1) Grand jurors and petit jurors in circuit court shall each be paid five dollars per day for jury service. Persons whose names are on the jury list for jury service in circuit court, or are summoned under KRS 29.280 to supply a deficiency, who appear in person in court in response to summons who do not claim exemption or ask to be relieved from jury service, shall receive five dollars per day for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

(2) Except as the amounts which may be expended therefor may be limited by regulations issued by the Department of Finance, the cost of meals, and where they are kept together over night, the cost of lodging, for all petit jurors ordered to remain together in the custody of the sheriff during the trial of any case, shall be paid by the circuit clerk out of the funds advanced by the Department of Finance as provided in KRS 28.180. The clerk shall obtain a receipt for the payment of such costs which shall be included in his settlement with the Department of Finance.

(3) In courts inferior to the circuit court, [except in counties containing a city of the second class,] each juror shall be paid \$1.50 for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.

[(4) In courts inferior to the circuit court, in counties containing a city of the second class, each juror shall be paid \$1.50 for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.]

Section 25. KRS 61.300 is amended to read as follows:

(1) No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, *unless*:

(a) [Unless] *He* is a citizen of the United States and is twenty-one (21) years of age or over;

(b) [Unless] *He* has resided in the county wherein he is appointed to serve for a period of at least two (2) years;

(c) *He* [Who] has *never* [ever] been convicted of or is under indictment for a crime involving moral turpitude;

(d) *He* [Who] has *not* within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute;

(e) [Until] *He* has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record.

(3) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of this section shall be fined not less than one hundred (100) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than six (6) months, or both.

Section 26. KRS 61.720 is amended to read as follows:

As used in KRS 61.710 to 61.780:

[(1)] "Financial interest" means an economic interest in the form of stocks, bonds, realty, equity or credit or interests in a corporation, proprietorship or partnership or otherwise.

Section 27. KRS 69.265 is amended to read as follows:

Each county attorney of the state shall be paid out of the state treasury, each month, beginning *July 1, 1972* [August 1, 1962], the sum of two hundred fifty dollars (\$250), which sum is hereby declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth, for postage, telephone service, travel, criminal investigation, supplies, stationery and books for which there are no provisions for payment. The Commissioner of Finance shall, on the first of each month beginning *July 1, 1972* [August 1, 1962], draw his warrant on the Treasurer in favor of each county attorney for the sum stated in this section, and the same shall be paid from the revolving fund created by KRS 142.040. The sums so received shall be expended by each county attorney in his discretion, the manner in which the same shall be applied in payment or reimbursement of such expenses being determined by such officer.

Section 28. KRS 125.190 is amended to read as follows:

The canvass and returns provided for in KRS 125.150 shall constitute the official returns of the precinct, unless within ninety-six (96) hours after the close of the polls a candidate shall in writing request the county *board of elections* [election commission] to check and recanvass the voting machines of any precinct or any number of precincts. When such a request has been made the election commission shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county court clerk, in which event the canvass and return shall become the official returns for the election. In making the recanvass the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for, the board with the assistance of the county clerk, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause, if any, of the discrepancy in returns of the machine. Each registering counter shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. After the completion of the examination and test, the county clerk shall then and there prepare a statement, in writing, giving in detail the result of the examination and test and statement which shall be witnessed by the persons present, and shall be filed with the board. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both.

Section 29. KRS 132.670 is amended to read as follows:

Whenever a city or county by order of its legislative body petitions the department for a reappraisal of the properties therein and the department, after investigation, determines that a reappraisal is necessary, the department shall, according to the comparative need therefor, provide personnel and other assistance to aid the city assessor or *property valuation administrator* [county tax commissioner] in accomplishing this result. The Department of Revenue shall prescribe methods and specifications for the reappraisal of property. Personnel authorized to assist in making a city or county reappraisal under this section may be given the same authority as a deputy *property valuation administrator* [tax commissioner] or deputy city assessor. Cities, counties, and other taxing districts may make appropriations from their general funds to share expenses incurred for such purposes by the department or for the purpose of employing other assistance in conducting

such reappraisal projects. The Department of Revenue shall prepare detailed maps identifying every parcel of real property within each county of the state by July 1, 1982. Each county shall furnish to the department adequate facilities in the county courthouse in which to work. The Department of Revenue shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy *property valuation administrator* [tax commissioner]. Cities, counties, and other taxing districts may make appropriations from their general funds to share expenses incurred for such purposes by the department or for the purpose of employing other assistance in conducting such mapping projects.

Section 30. KRS 147.610 is amended to read as follows:

In any two (2) or more adjacent counties, one (1) of which has a city having a population of more than 50,000 and not more than 200,000 inhabitants as declared by the last federal census, the various cities and the counties may consolidate their planning operations by establishing an area planning commission which may be created under the provisions of KRS 147.610 to 147.710 and 147.990 [chapter 100], when in the judgment of the legislative bodies of the cities and counties a consolidation provides for a more efficient planning operation.

Section 31. KRS 149.550 is amended to read as follows:

(1) If the county governing body requires the owners to participate, it shall determine the amount of the assessment for each acre, and shall order the assessment to be paid into the county treasury by the owners of all timberland located in the county.

(2) It shall be the duty of each owner of timberland situated in the county to list or have listed such property with the property valuation administrator within the time provided for assessing property for state and county ad valorem taxes.

(3) Timberland shall be listed by the owner of the first freehold estate therein, and it shall be listed without reference to conflicting title. The listing shall be made at the same time and in the same manner in which declarations of real property owned are made with the property valuation administrator for assessment purposes. If the owner fails to list the timberland, the *property valuation administrator* [county tax commissioner] shall list it. The *property valuation administrator* [county tax commissioner] shall have the power to swear witnesses in order to ascertain the person in whose name to make the list.

(4) All persons in whose name the timberland acreage is properly listed shall remain bound for the assessment, notwithstanding they may have sold or parted with it.

Section 32. KRS 138.591 is amended to read as follows:

[(1)] Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the department, by the twenty-fifth day of each month, an amount equal to not less than ninety-five percent of his tax liability as finally determined for the previous month shall not be required to file the monthly reports required by this chapter until the last day of each month, and shall be permitted to claim as a credit against the tax liability shown due on such report the amount previously paid for such month.

Section 33. KRS 156.630 is amended to read as follows:

(1) The teacher *education* scholarship board shall award scholarships not to exceed two hundred thousand dollars (\$200,000) for the 1962-64 biennium to applicants whom the board deems qualified. Scholarships shall be awarded solely for summer work at any accredited college or institution of the applicant's choice within the commonwealth. Each scholarship shall consist of two hundred dollars (\$200), payable at the end of the summer term. The scholarship shall be paid only if the applicant successfully completes at least six (6) semester hours of academic courses in the subject for which the scholarship was granted. Each person to whom a scholarship is granted shall take at least six (6) semester hours of courses approved by the college in the subject for which the scholarship was granted and may take three (3) additional semester hours in that subject or another subject which he is teaching and in which he does not have a minor.

(2) In awarding scholarships for the second year, the board shall give priority to persons who were not awarded a scholarship the first year, provided, however, that an applicant may be awarded a scholarship the second year if he successfully completed six (6) semester hours the first year and is otherwise qualified under the terms of KRS 156.610 to 156.650.

Section 34. KRS 158.990 is amended to read as follows:

[(1)] Any person who violates any of the provisions of subsection (2) or (3) of KRS 158.020 shall be fined one thousand dollars (\$1,000), and any person who continues to violate such provisions after being convicted shall be fined one hundred dollars (\$100) for each day the violation continues.

(2) Any person who violates any of the provisions of subsection (4) or (5) of KRS 158.020 shall be fined fifty dollars (\$50.00) for each day the violation occurs.]

(1) [(3)] Any person who violates any of the provisions of KRS 158.180 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not less than thirty (30) days nor more than six months, or both.

(2) [(4)] Failure of a teacher to conform to KRS 158.170 is cause for revocation of his certificate.

(3) [(5)] Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00).

Section 35. KRS 160.593 is amended to read as follows:

Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, request the fiscal court to levy [in its district] one of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633. The fiscal court shall levy [in the district], within fifteen (15) days of such request, the school tax at the rate requested. All taxes referred to in this section shall be levied on a county-wide basis unless the school board of a school district within the county requests that the tax levied shall not be assessed against the residents of its school district, in which case the residents of that school district shall be exempted from the tax. In those counties where one of the taxes referred to by this section is in effect on June 16, 1972, the taxes shall continue to be levied on a county-wide basis. Revenue produced by such taxes shall be distributed on an average Daily Attendance to those districts levying such taxes.

Section 36. KRS 189.940 is amended to read as follows:

(1) The [prima facie] speed limitations set forth in the Kentucky Revised Statutes do not apply to emergency vehicles when responding to emergency calls or to police vehicles when in pursuit of an actual or suspected violator of the law and when the drivers thereof are operating the vehicle's warning lights and are giving audible signals by siren, bell, or exhaust whistle.

(2) The driver of an emergency vehicle, when responding to an emergency call or of a police vehicle in pursuit of an actual or suspected violator of the law and giving the warning required by subsection (1) of this section, upon approaching any red light or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed past such red or stop light or stop sign with due regard for the safety of persons using the street or highway.

(3) The driver of an emergency vehicle, when responding to an emergency call or of a police vehicle in pursuit of an actual or suspected violator of the law and giving warning required by subsection (1) of this section, may drive on the left side of any highway or on the opposite direction of a one-way street provided the normal lanes of traffic are blocked and he does so with due regard for the safety of all persons using the street or highway.

(4) The driver of an emergency or public safety vehicle may stop or park his vehicle upon any street or highway without regard to the provisions of KRS 189.390 and 189.450, provided that, during the time the vehicle is parked at the scene of an emergency, that at least one (1) warning light is in operation at all times.

(5) No driver or operator of any emergency or public safety or other vehicle shall use the warning lights or siren, bell, or exhaust whistle of his vehicle for any purposes or under any circumstances other than those permitted by KRS 189.910 to 189.950.

(6) KRS 189.910 to 189.950 does not relieve the driver of any emergency or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

Section 37. KRS 196.070 is amended to read as follows:

The director of the division of institutions shall:

(1) Supervise and administer the Kentucky state reformatory at LaGrange located in *Oldham* [Shelby] County and the women's prison, the Kentucky state penitentiary at Eddyville, or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the commissioner and the commissioner of finance, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of male prisoners between institutions.

(6) Approve the forfeiture or restoration of good time earned by prisoners during their term of confinement.

Section 38. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists or dentists licensed to render such service, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care, hospital care as defined in KRS 205.560 (1) (a), and such other essential medical services and supplies as may be prescribed

by such persons. However, this section does not authorize optometrists to perform any services other than those authorized by KRS chapter 320;

(4) "Nurses" means persons authorized to practice professional nursing under the laws of the Commonwealth;

(5) "Nursing Home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216.405 [216.400];

(6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(9) "Public assistance recipient" means a person who has been certified by the Bureau of Public Assistance of the Department of Economic Security as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(10) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the commissioner of the Department of Economic Security;

(11) "Vendor payment" means a payment for medical care which is paid by the Department of Economic Security directly to the authorized person or institution which rendered medical care to an eligible recipient.

Section 39. KRS 211.190 is amended to read as follows:

The department shall provide public health services including the following:

(1) Administrative, consultative, technical, professional and other services needed to assist local health departments in the effective maintenance and operation of their departments;

(2) Administrative, investigative and clerical services required by the board and may upon request provide such services to any other agency of this commonwealth authorized to control the practice of any other healing art;

(3) Administration of grants, gifts or contributions from the federal government, or from other sources, for the purpose of carrying out the provisions of Public Law No. 725 (79th Congress, 2nd Session, chapter 958) or any other acts for the same or similar purposes;

(4) Central registrations of births, deaths and other vital records and the furnishing of copies thereof to the general public in the manner prescribed by law;

(5) Statistical services, including the *compilation* [complication], analysis and maintenance of statistics on matters related to public health, and may provide such services to organizations and persons interested in public health;

(6) Education of the public concerning all matters relating to health, including the publication and dissemination of health information, and the stimulation of citizen support for the promotion and maintenance of high standards of public health throughout the commonwealth;

(7) Survey and study of the needs of medical and hospital facilities in the interest of the health of the general public;

(8) Establishment, maintenance and operation of public health laboratories and such branches thereof as may be needed;

(9) Establishment, maintenance and operation of training facilities and schools for employees of the department and of local health departments;

(10) Tabulating, duplicating and such other ancillary services as are necessary to the operation of the department, including the keeping of adequate financial, personnel and other records.

Section 40. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the State Board of Health the controlled substances listed in this section are included in Schedule V:

[(1)] Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone: Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams.

Section 41. KRS 220.360 is amended to read as follows:

(1) The board of directors, as soon as duly appointed and qualified, may levy one (1), two (2), or three (3) annual taxes, which taxes need not be in successive years, or not more than fifteen cents (15) upon each one hundred dollars (\$100) of assessed valuation of property within the district, to be used for the purpose of paying the expenses of organization, surveys and plans, and for other incidental expenses that may be necessary up to the time money is received from the sale of bonds. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The tax shall be based upon the last preceding assessment for state and county purposes, its collection shall conform to the collection of taxes for counties, and the same provisions concerning the nonpayment of taxes shall apply. The tax shall be added by the county clerk to the next state and county tax bill following the levy of the tax by the board of directors, and shall be collected concurrently with the state and county taxes. Neither the *property valuation administrator* [county tax commissioner] nor the county court clerk shall be entitled to any additional compensation for the services rendered in connection with the listing of the property for taxation nor shall the sheriff receive any additional compensation for the collection of the tax.

Section 42. KRS 222.011 is amended to read as follows:

In this chapter the following words shall, unless the context requires otherwise, have the following meanings:

- (1) "Administrator" means the person in charge of the operation of a facility, or his designee.
- (2) "Alcoholic" means a person suffering from alcoholism.
- (3) "Alcoholism" means a medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in the (a) substantial interference with an individual's social or economic functions in the community, or (b) the loss of powers of self-control with respect to the use of such beverages.
- (4) "A person under the influence of drugs" means a person whose powers of self-control have been substantially impaired because of the use of a drug described in KRS chapters 217 and 218.4 or the federal Controlled Substances Act of 1970, and regulations pursuant thereto.
- (5) "Commissioner" means the commissioner of mental health.
- (6) "Department" means the department of mental health.
- (7) "Director" means the director of the division of alcohol and drug abuse.
- (8) "Division" means the division of alcohol and drug abuse.
- (9) "Drug addict" means any person whose use of an addictive substance has produced a condition which requires ingestion or injection of the addictive substance, or both, as a means of preventing withdrawal symptoms and of maintaining the individual's state of function.
- (10) "Drug dependent person" or "drug abuser" means any person who compulsively and habitually uses drugs to the extent that they injure his health and interfere with his social and economic functioning.
- (11) "Facility" means any public or private place, or portion thereof, providing services especially designed for the detoxification, treatment or rehabilitation of intoxicated persons or alcoholics.
- (12) "Incapacitated" means the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is:
 - (a) Unconscious,
 - (b) In need of medical attention,
 - (c) Likely to suffer or cause physical harm or damage property, or
 - (d) Disorderly.
- (13) "Independent physician" means a physician licensed to practice in Kentucky, other than one holding an office or appointment in any department, board or agency of the commonwealth, or in any public facility.
- (14) "Juvenile" means any person who is under the age of eighteen.
- (15) "Patient" means any person admitted to a facility.
- (16) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcoholics.

Section 43. KRS 222.031 is amended to read as follows:

(1) The Department of Mental Health is further designated to carry out the planning activities of the Commonwealth in the field of alcoholism and other drug abuse and addiction and to provide assistance to the activities of other state agencies in combating the problems of alcoholism and other drug abuse and addiction, as they may affect those state agency programs or persons under their respective charge and care.

(2) To initiate and implement the purposes set forth in this chapter, there is established within the Department of Mental Health a Division of Alcohol and Drug Abuse. The director shall be appointed by the commissioner with the advice and consent of the Commission on Alcohol and Drug Problems and with the approval of the Governor. The director of the division may be any person qualified by training, research or experience in the treatment of behavioral disorders of medico-social problems or in the design, organization or administration of treatment services for persons suffering from behavioral disorders or medico-social problems.

(3) To implement the coordination of state agencies' alcoholism programs, there is hereby established an Interagency Council on Alcoholism[s] which shall be composed of but not restricted to, a representative from each of the following departments: Child Welfare, Corrections, Economic Security, Education, Health, Labor, Mental Health, Public Safety, Tuberculosis Hospital Commission, and Personnel. The commissioner of each department named to the council shall designate a representative from his department to the Interagency Council on Alcoholisms. The designated representative shall be the staff member charged with alcoholism program responsibility within that department.

(4) A coordinator shall be appointed in the Division of Alcohol and Drug Abuse, Department of Mental Health to implement the Interagency Council on Alcoholisms to conduct ongoing activities of the council to develop coordination and planning between the Division of Alcohol and Drug Abuse and the agencies represented on the Interagency Council of Alcoholisms.

(5) To implement the coordination of state agencies' drug programs there is hereby established an Interagency Council on Drug Abuse which shall be composed of, but not restricted to, a representative from each of the following departments: Child Welfare, Corrections, Economic Security, Education, Health, Labor, Mental Health, Public Safety and Personnel. The commissioner of each department named to the council shall designate a representative from his department to the Interagency Council on Drug Abuse. The designated representative shall be the staff member charged with drug abuse program responsibility within that department.

(6) A coordinator shall be appointed in the Division of Alcohol and Drug Abuse, Department of Mental Health to implement the Interagency Council on Drug Abuse to conduct ongoing activities of the council to develop coordination and planning between the Division of Alcohol and Drug Abuse and the agencies represented on the Interagency Council of Drug Abuse.

(7) The provisions of this section and KRS 222.020 and 222.035 shall be in addition to any present statutory responsibility given to state departments.

Section 44. KRS 222.310 is amended to read as follows:

(1) As used in this section "hospital" shall be defined as in KRS 216.405 (6) [216.400 (1)].

(2) No hospital shall refuse to admit and treat on the basis of medical need, alcohol abusers and alcoholics whose admission or treatment has been prescribed by a physician who is a member of the hospital's staff; nor shall any hospital discriminate against alcoholics solely because of their alcoholism.

Section 45. KRS 244.550 is amended to read as follows:

[Except as provided in KRS 243.190,] No [no] person shall fortify, adulterate, contaminate or in any manner change the character or purity of the malt beverages from that as originally marketed by the brewer or sell, deliver or transport malt beverages except in the original containers.

Section 46. KRS 262.765 is amended to read as follows:

(1) The board of directors of a watershed conservancy district shall prepare and furnish to the *property valuation commissioner* [county tax commissioner] by January 1 each year a list of the landowners in each county involved showing the real property subject to assessment, and the *property valuation administrator* [county tax commissioner] of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the *property valuation administrator* [county tax commissioner] by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county court clerk by the *property valuation administrator* [county tax commissioner], as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the department of revenue.

Section 47. KRS 278.990 is amended to read as follows:

(1) Any officer, agent or employe of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of KRS 278.010 to 278.450, or who procures, aids or abets any violation of those provisions by any such utility, shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six (6) months, or both. If any such utility that is a private corporation violates any of the provisions of KRS 278.010 to 278.450, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any lawful requirement or order of the public service commission, the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000). Each act, omission or failure by an officer, agent or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission or failure of the utility.

(2) Actions to recover the principal amount due and penalties under KRS 278.010 to 278.450 and this subsection shall be brought in the name of the commonwealth in the Franklin Circuit Court. Whenever any utility is subject to a penalty under KRS 278.010 to 278.450 or this subsection, the public service commission shall certify the facts to its counsel, who shall bring an action for recovery of the principal amount due and the penalty. The commission may compromise and dismiss the action on terms approved by the court. The principal amount due shall be paid into the state treasury and credited to the account of the commission, and all penalties recovered in such actions shall be paid into the state treasury and credited to the general fund.

(3) Any utility that fails to pay an assessment as provided for by KRS 278.130 to 278.150 shall forfeit and pay to the state one thousand dollars (\$1,000), and twenty-five dollars (\$25.00) for each day it fails to pay the assessment, and shall not be released thereby from its liability for the assessment.

(4) Any utility that issues any securities or evidences of indebtedness, or assumes any obligation or liability in respect to the securities or evidences of indebtedness of any other person, or makes any sale or other disposition of securities or evidences of indebtedness, or the proceeds thereof, for purposes other than the purposes specified in the order of the public service commission made with respect thereto under KRS 278.300, shall be fined not more than ten thousand dollars (\$10,000).

(5) Any utility that violates any of the provisions of KRS 278.460 shall be fined not less than one hundred dollars (\$100) for each offense.

(6) Any company that wilfully fails to receive, transport and deliver oil or gas as required by KRS 278.490 shall, in addition to being liable in damages to the injured person, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and each day of wilful failure shall constitute a separate offense.

(7) Any telephone company that refuses to make a connection with the exchange or lines of another company for a period of thirty (30) days after being ordered to do so by the public service commission under subsection (2) of KRS 278.530 shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), to be recovered by indictment in the Franklin Circuit Court or in the circuit court of the county where the company requesting the connection resides or has its chief office in this state. If the company desiring the connection proceeds to make the connection, as permitted by subsection (2) of KRS 278.530, and the company so connected with refuses to receive and transmit the toll messages offered to it by the company making the connection, or refuses to deliver messages from its own lines or exchanges to the lines or exchanges of the company making the connection, the company so refusing shall be fined one hundred dollars (\$100) for each day it refuses, to be recovered by indictment in the courts mentioned in the first sentence of this subsection; if it continues so to refuse for a period of six (6) months it shall forfeit its right to do business in this state, and any of its officers, agents or employees who does or attempts to do any business in this state for it after the expiration of the six (6) months' period shall be fined fifty dollars (\$50.00) for each day he does or attempts to do such business.

(8) Any company that violates any of the provisions of KRS 278.520 or 278.530 for which there is no other penalty provided shall be fined five hundred dollars (\$500) for each offense, and each day of such violation shall constitute a separate offense.

[(9) Any interurban railway company that violates any of the provisions of KRS 278.570 shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) for each offense, and each day that the company operates a passenger car that is not equipped as provided in KRS 278.570 shall constitute a separate offense.]

[(10) Any interurban railway company that violates, or permits any of its agents or employees to violate, any of the provisions of KRS 278.580 shall, in addition to subjecting itself to liability for any damages caused thereby, be fined for each offense not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Prosecutions under this subsection shall not be commenced more than six (6) months after the commission of the offense charged.]

Section 48. KRS 287.235 is amended to read as follows:

Common trust funds shall not be considered as an entity for income or other tax purposes, nor shall investment in such fund make taxable any property which is otherwise exempt therefrom; and for purposes of taxation, the status of the common trust fund and of each participant therein shall be determined as though there were no common fund and as though each participant was the owner of its proportionate share of every asset held in the common fund. The bank or trust company maintaining said fund shall file a report of said fund with the *property valuation administration* [county tax commissioner] as of the ad valorem tax date and shall file annually such income tax information as may be required by the department of revenue.

Section 49. KRS 291.520 is amended to read as follows:

(1) KRS 287.215, 288.420, 288.620 and 360.010 do not apply to loans made under authority of KRS 291.460 [or 291.470] to 291.510, but KRS 287.215, 288.420, 288.620 and 360.010 remain in full force and effect for all other purposes and nothing in this section or in KRS 291.480 [291.470] to 291.510 shall be construed to impair the validity or effect of KRS 287.215, 288.420, 288.620 and 360.010 with respect to loans other than those made pursuant to KRS 291.460 or [or 291.470] to 291.510.

(2) Any contract of loan in the making or collection of which any act has been done which constitutes a wilful violation of any provision of KRS 291.460 [or 291.470] to 291.510 is void, and the corporation has no right to collect or receive any interest or charges whatsoever on such loan, but the unpaid principal of the loan shall be paid in full to the lending institution.

(3) Those industrial loan corporations operating under KRS 291.410 to 291.600 that issue certificates of investment shall establish as a reserve against such certificates of investment an amount which shall not be less than five per cent (5%) of the amount of such certificates of investment outstanding. In addition the commissioner shall have authority to require a blanket surety bond with an approved corporate surety which shall include fidelity coverage in an amount deemed adequate by the commissioner to protect holders of certificates of investment.

(4) No corporation organized under KRS 291.410 to 291.600 shall deposit any of its funds with any bank or trust company unless such bank or trust company has been designated as such depository by a vote of the majority of the directors of the executive committee exclusive of any director who is an officer, director or trustee of the depository so designated. A corporation operating under KRS 291.410 to 291.600 may invest in the bonds of any federal instrumentality or bonds issued by the Commonwealth of Kentucky or any governmental subdivision thereof.

(5) No corporation organized under KRS 291.410 to 291.600, nor any foreign industrial loan corporation nor any other person shall conduct its business in the same office in which there is conducted a petty loan business under KRS chapter 288, or solicit any other business, or associate or be in conjunction with any other business except upon a written authorization by the commissioner.

Section 50. KRS 292.520 is amended to read as follows:

The securities advisory committee shall:

- (1) Serve in an advisory capacity to the director in all matters pertaining to this chapter;
- (2) Acquaint themselves fully with the operations of the director's office as to the administration of securities, broker-dealers, agents, and investment advisers, and periodically recommend to the director such changes in the rules and regulations of the division in connection therewith as they deem advisable;
- (3) Appoint three of their members to act as an examining committee;
- (4) The securities advisory committee shall receive no compensation, but shall be reimbursed as provided by law for their transportation, lodging and other expenses; Provided, That members acting as an examining committee when directed to do so by the director shall be paid in addition to expenses allowed fifty dollars per day for conducting examinations provided for herein.

Section 51. KRS 304.2-210 is amended to read as follows:

(1) For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every four (4) years. Examination of a reciprocal insurer may include examination of its attorney in fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the commissioner otherwise requires.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the commission may, in his discretion, accept a full report of the last recent examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof the commissioner [the commissioner] may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

Section 52. KRS 304.6-140 is amended to read as follows:

(1) This subsection applies only to policies and contracts issued prior to January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law. The minimum standard for the valuation of all such policies and contracts shall be that provided by the laws in effect immediately prior to such date. Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(2) This subsection applies only to policies and contracts issued on and after January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law.

The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in KRS 304.6-150, 4 per cent interest, and the following tables:

(a) Standard ordinary mortality table. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies--the commissioners 1941 standard ordinary mortality table; Provided, however, That the commissioners 1958 standard ordinary mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1966, or such earlier date after June 16, 1960, as shall have been elected by an insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law; Provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in KRS 304.6-130 to 304.6-180, inclusive, may be [may be] calculated according to an age not more than three (3) years younger than the actual age of the insured.

(b) Standard industrial mortality table. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies--the 1941 standard industrial mortality table; Provided, however, That the commissioners 1961 standard industrial mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1968, or such earlier date after June 14, 1962, as shall have been elected by the insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law.

(c) Standard annuity mortality table or annuity mortality table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies--the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

(d) Group annuity mortality table. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies--the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) Class (3) disability table. For total and permanent disability benefits in or supplementary to ordinary policies or contracts on active and disabled lives--for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926), and for policies issued prior to January 1, 1961, the class (3) disability table (1926). In addition, any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) Inter-company double indemnity mortality table. For accidental death benefits in or supplementary to policies--for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) Group life and other tables. For group life insurance, life insurance issued on the substandard basis and other special benefits--such tables as may be approved by the commissioner.

Section 53. KRS 311.595 is amended to read as follows:

(1) Where such power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application for a license; place a licensee on probation for a period not to exceed five years; suspend a license for a period not to exceed five years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(b) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license.

(c) Committed, procured or aided in the procurement of an unlawful abortion.

(d) Been convicted of a felony involving moral turpitude. The conviction of any offense in another state, territory or country, which if committed in this state would be deemed a felony shall be held to be a felony under this section without regard to its designation in such other state, territory or country.

(e) Become addicted to a drug habit.

(f) Become a chronic or persistent alcoholic.

(g) Developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the

allegations against him (unless the failure was due to circumstances beyond his control) consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician whose license has been suspended, limited, restricted or revoked under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

(h) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(i) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(j) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed; or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(k) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 [311.600] or any other valid regulation of the board.

(l) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board.

(m) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name.

(n) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(o) Wilfully violated a confidential communication.

(p) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

(q) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the Trustees of the Rural Kentucky Medical Scholarship Fund.

(r) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereafter amended, or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, provided the patient has full knowledge of this division and provided the division is made in proportion to the services performed and responsibility assumed by each.

(2) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise such a person of the nature, time and place thereof. Proceedings and forms shall be in accordance with rules and regulations of the board, and hearings may be conducted by hearing officers of the board as provided in subsection (2) (b) of KRS 311.565, but no hearing shall be conducted until at least thirty days' written notice thereof has been given to the holder of the license, who shall have the right to be present, in person or by counsel, and to present evidence and to be heard in opposition to the charges which may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceedings before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in this subsection, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty days after notice is given to the licensee, unless said licensee, within thirty days from the giving of such notice, appeals therefrom in the manner provided by subsection (4) of this section. Provided, however, that the board may, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and safety of the licensee's patients or the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of same,

engage or continue to engage in any prohibited practice under the license unless and until the order is reversed or modified by a final and unappealable order or judgment of a court made pursuant to the provisions of subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting or revoking his license may procure a declaration of rights under the Declaratory Judgment Act by filing, within thirty days after notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficient sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served upon the secretary for and on behalf of the board, and the secretary shall, within thirty days after such service and the filing of said bond, file with the court a transcript of the record of hearing together with a certified copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act and the Court of Appeals shall docket and advance the appeal as provided in said Act.

(5) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, which is given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address as it appears in the files of the board shall be sufficient.

(6) All members of the board, and its secretary and hearing officer, have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension or revocation.

(7) The board may compel the attendance of witnesses at hearings in connection with disciplinary proceedings, and circuit and county courts are, upon petition of the board or its hearing officer, authorized and empowered to punish as contempt all failures to obey subpoenas and other process provided in subsection (6) of this section and all contemptuous or contumacious conduct directed to the board or its hearing officer in the course of disciplinary proceedings.

Section 54. KRS 317.450 is amended to read as follows:

(1) The barber board shall issue a license to practice barbering to any person who:

(a) Is at least eighteen (18) years of age;

(b) Is of good moral character and temperate habit;

(c) Has acted as a licensed apprentice for at least eighteen (18) months under the immediate supervision of a licensed barber;

(d) Has satisfactorily passed the examination prescribed by the barber board;

(e) Has paid a fee of \$20.00.

(2) The barber board shall issue a license to act as apprentice to a barber to any person who:

(a) Is at least sixteen and one-half (16 1/2) years of age;

(b) Is of good moral character and temperate habit;

(c) Has at least four (4) years of high school education;

(d) Has graduated from an accredited or licensed school of barbering;

(e) Has satisfactorily passed the examination prescribed by the barber board; and

(f) Has paid a fee of \$20.00.

(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application of such barber accompanied by a fee of \$10.00 provided that the barber board shall refuse to issue such a license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.

(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:

(a) Applies therefor upon forms furnished by the board;

(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;

(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;

(d) Pays a fee of \$100.

(5) The barber board shall issue a license to teach barbering to any person who:

- (a) Is of good moral character and temperate habit;
- (b) Has a high school education and at least two (2) years of college;
- (c) Has been a licensed and practicing barber for at least thirty-six (36) months;
- (d) Has satisfactorily passed the examination prescribed by the board; and
- (e) Has paid a fee of \$25.00.

(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:

- (a) Barber--\$20.00;
- (b) Apprentice to a barber--\$20.00;
- (c) Teaching barbering--\$25.00.

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

- (a) Barber--\$12.00;
- (b) Apprentice to barber--\$12.00;
- (c) Teacher of barbering--\$15.00;
- (d) Barber shop--\$10.00;
- (e) Barber school--\$75.00.

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an [un]expired license, where the period of expiration does not exceed five (5) years, shall be as follows:

- (a) Barber--\$50.00;
- (b) Apprentice--\$50.00;
- (c) Barber shop--\$10.00;
- (d) Barber school--\$75.00;
- (e) Teacher of barbering--\$25.00.

Section 55. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the State Board of Registration for Professional Engineers and Land Surveyors.
 (2) "ECPD" means Engineer's Council for Professional Development.
 (3) "Engineer" means a person who is qualified by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, to engage in the practice of professional engineering.

(4) "Engineering" includes any professional services, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or private utility, structure, machine, equipment, process, work or project with which the public welfare or the safeguarding of life, health or property is concerned, when such professional service requires the application of engineering principles and data. It does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, such as locomotive, stationary, marine or power plant operators, nor work embraced within the practice of land surveying.

(5) "Practice of engineering" includes all professional services included in subsection (4), together with the negotiation or solicitation for engineering work on any project in this state, regardless of whether the persons engaged in that practice are residents of this state or have their principal office or place of business in this state or any other state or country, and regardless of whether they are performing one or all of these duties, or whether they are performing them in person or as the directing heads of offices or organizations.

(6) "Land surveying" means and includes any services requiring the determination of the location of land boundaries and land boundary corners and incidental topography; the preparation of maps showing the shape and area of tracts of land and their subdivision into smaller tracts; the preparation of maps showing the layout of roads, streets and rights-of-way; and the preparation of official maps or plats of land within this state.

(7) "Land surveyor" means and includes any person engaged in the practice of land surveying as herein defined, and shall include any public offer, or the holding out by any person to the public, to engage in the practice of land surveying.

(8) "Practice of land surveying" or "offer to practice" shall include performance of any act or acts directly related to land surveying, or any claim, oral or written, sign, letterhead, professional card, or other representation, on the part of any person representing himself to be a land surveyor or who holds himself out

to the general public as possessing the ability and qualifications to perform land surveying within the terms of KRS 322.010, 322.200, 322.230 to 322.250, 322.420 [322.410] to 322.460.

Section 56. KRS 323A.120 is amended to read as follows:

(1) No license shall be revoked or suspended without a hearing. [;] T[t]he board may proceed against a licensee on its own initiative; on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if it were true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three months.

(2) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the accused not less than twenty days prior to the date of the hearing, either personally or by mailing a copy thereof by registered mail to the address of the accused last known to the board.

Section 57. KRS 323A.140 is amended to read as follows:

(1) Any person whose license is revoked by the board may appeal from the order of revocation by filing in the Franklin Circuit Court or in the circuit court in the district in which the licensee maintains his business a petition for appeal and a copy of the order of the board within sixty days of the date of entry of the order. He shall make bond for costs. The petition for appeal shall set forth with particularity the grounds upon which the appeal is taken. The licensee shall cause a copy of the petition for appeal to be served upon the secretary of the board.

(2) Within thirty days after service of notice of appeal, or within such further time as the court may allow, the board shall file in the Franklin Circuit Court or in the circuit court in the district in which the licensee maintains his business the original or a certified copy of the entire record of its proceedings under review; but, by stipulation of the parties the record may be shortened.

(3) The filing of the petition for appeal shall not stay enforcement of the order; but upon motion of appellant the Franklin Circuit Court or [in] the circuit court in the district in which the licensee maintains his business, in its discretion, may order a stay pending decision of the appeal. If the time for renewal of the license occurs during a stay of enforcement, the board shall grant a renewal upon application properly made and payment of the usual fees.

(4) The Franklin Circuit Court or [in] the circuit court in the district in which the licensee maintains his business shall set the case for hearing without a jury and dispose of the appeal de novo.

(5) Any aggrieved party may secure a review of any adverse judgment of the Franklin Circuit Court or [in] the circuit court in the district in which the licensee maintains his business under this chapter by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided in the Rules of Civil Procedure.

Section 58. KRS 334.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1)[(a)] "Board" means the board for licensing hearing aid dealers and fitters.

(2)[(b)] "License" means a license issued by the state under this chapter to hearing aid dealers and fitters.

(3)[(c)] "Temporary permit" means a permit issued while the applicant is in training to become a licensed hearing aid dealer or fitter.

(4)[(d)] "Hearing aid" means any wearable instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device.

(5)[(e)] "Practice of fitting and dealing" in hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means devised for the purpose of making selections, adaptations and sales of hearing aids to compensate for hearing loss. The term also includes the making of ear molds.

(6)[(f)] "Sell or sale" shall mean any transfer of title or of the right to use by lease, bailment, or any other contract.

Section 59. KRS 344.130 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Place of public accommodation, resort or amusement" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public or which is supported directly or indirectly by government funds: except that (1)[(a)] a private club is not a place of public accommodation, resort or amusement if its policies are determined by its members and its facilities or services are available only to its members and their bona fide guests; and (2)[(b)] "place of public accommodation, resort or amusement" does not include a rooming or boarding house containing not more than one room for rent or hire and which is within a building occupied by the proprietor as his residence.

Section 60. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a State Labor Relations Board to assist in resolving disputes between public employers and fire fighters or their labor organization which shall be composed of three members appointed by the Governor, one for a term of two years, one for a term of three years, and one for a term of four years. The Governor shall designate one member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the Governor.

(2) Each member of the board shall have been an elector in this state for at least one year next preceding his appointment. Any member may be removed by the Governor for cause, shown in a public hearing after the accused has been given a copy of the charges made and has had an opportunity to answer such charges. The Governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid \$50 and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the Labor Relations Board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employees as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter may be served personally, by registered mail or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

Section 61. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means a device, apparatus, equipment, machinery or practice approved by the commissioner of the Department of Mines and Minerals;

(d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the Federal Bureau of Mines and is approved by the Department of Mines and Minerals of this state;

(e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(f) "Commercial mine" means any coal or clay mine from which coal or clay is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal or clay is produced for own use;

(g) "Commissioner" means commissioner of the Department of Mines and Minerals;

(h) "Department" means the Department of Mines and Minerals;

(i) "Drift" means an opening through the strata, with opening grades such as to permit coal to be hauled by animals or mechanical traction power, and capable of being used for the purpose of ventilation, drainage, ingress, egress and other purposes in connection with the mining of coal;

(j) "Excavations and workings" includes all the excavated portions of a mine, whether abandoned or being worked, all underground workings, shafts, slopes, tunnels, ways and openings, whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith below the surface;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine" means any mine in which there is a record of methane having been ignited, or has been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent or more has been found not less than twelve inches from the roof, face or rib, using approved methane testers or detectors or by analysis;

(n) "High voltage" means any voltage greater than one thousand volts;

(o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(q) "Low voltage" means up to and including six hundred sixty volts;

(r) "Medium voltage" means voltages from six hundred sixty to one thousand volts;

(s) "Mine" means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine;

(t) "Mine foreman" means the person who the operator or superintendent places in charge of the workings of the mine and of persons employed therein;

(u) "Nongassy mine" means any mine not classified as a gassy mine;

(v) "Open-pit mine" shall include open excavations, prospect openings and open-cut workings including auger mines for the extraction of coal or clay;

(w) "Operator" means an individual, firm or corporation operating a coal or clay mine or any part thereof;

(x) "Permissible" means any equipment, device, or explosive that has been approved as permissible by the United States Bureau of Mines and meets all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the bureau;

(y) "Punch mining" means workings that are driven directly into the seam without cross entries;

(z) "Pure intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent oxygen nor more than one-half of one percent of carbon dioxide, nor any dangerous quantities of flammable gas nor any harmful amounts of poisonous gas or dust;

(aa)[(1.)] "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(bb)[(2.)] "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal or clay, for the purpose of ventilation or drainage, or for hoisting men, coal, clay or materials;

(cc)[(3.)] "Slope" means an inclined opening used for the same purpose as a shaft;

(dd)[(4.)] "Superintendent" means the person who, on behalf of the operator, has immediate supervision of one or more mines;

(ee)[(5.)] "Tipple or dumping point" means the tipple or structure where coal or clay is dumped or unloaded from the mine car into railroad cars, trucks, wagons or other means of conveyance;

(ff)[(6.)] "Working face" means any place in a coal or clay mine in which work of extracting coal or clay from its natural deposit in the earth is performed during the mining cycle;

(gg)[(7.)] "Working place" means the area of a coal or clay mine in by the last open crosscut;

(hh)[(8.)] "Working section" means all areas of a coal or clay mine from the loading point or transfer point of the section to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 62. KRS 367.220 is amended to read as follows:

(1) Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by KRS 367.170, may bring an action under the Rules of Civil Procedure in the circuit court in which the seller or lessor resides or has his principal place of business or is doing business, or in the circuit court in which the purchaser or lessee [lessor] of goods or services resides, or where the transaction in question occurred, to recover actual damages. The court may, in its discretion, award actual damages and may provide such equitable relief as it deems

necessary or proper. Nothing in this subsection shall be construed to limit a person's right to seek punitive damages where appropriate.

(2) Upon commencement of any action brought under subsection (1) of this section, the clerk of the court shall mail a copy of the complaint or other initial pleading to the Attorney General and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the Attorney General.

(3) In any action brought by a person under this section, the court may award, to the prevailing party, in addition to the relief provided in this section, reasonable attorney's fees and costs.

(4) Any permanent injunction, judgment or order of the court made under KRS 367.190 shall be prima facie evidence in an action brought under this section that the respondent used or employed a method, act or practice declared unlawful by KRS 367.170.

(5) Any person bringing an action under this section must bring such action within one year after any action of the Attorney General has been terminated or within two years after the violation of KRS 367.170, whichever is later.

Section 63. KRS 439.580 is amended to read as follows:

[(1)] As used in KRS 439.590 to 439.630, unless the context otherwise requires:

(1)[(a)] "Commissioner" means the Commissioner of the Department of Corrections;

(2)[(b)] "Department" means the Department of Corrections;

(3)[(c)] "Facility" means the community correctional center;

(4)[(d)] "Relative" means a spouse, child (including step-child, adopted child or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person who, though not a natural parent, has acted in the place of a parent), brother or sister or grandparents.

Section 64. KRS 206.180, 278.560, 278.570, and 278.580 are repealed.

HR 25, A RESOLUTION expressing sympathy to the family of Mrs. Dew Flanery Haffler.

WHEREAS, Mrs. Dew Flanery Haffler, formerly of Catlettsburg and Lexington, passed from this life on January 9, 1974; and

WHEREAS, with her passing, the Commonwealth of Kentucky lost an outstanding citizen; and

WHEREAS, she was the daughter of Mrs. Mary Elliott Flanery, first woman member of a Kentucky General Assembly, serving as Boyd County representative in 1922, and the late W. H. Flanery, lawyer; and

WHEREAS, she was the great-niece of Judge John Milton Elliott, an outstanding Judge of the Court of Appeals who was assassinated in 1879; and

WHEREAS, during life she was the very expression of her virtues and ideals her forebears held in high regard;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That we express our deepest sympathy to the family of Mrs. Haffler for their great loss and deprivation of a mother, sister and friend.

Section 2. That the clerk of the House of Representatives be, and hereby is, directed to send four copies of this resolution to the family.

HR 39, A RESOLUTION directing the Legislative Research Commission, with the cooperation and assistance of the Council on Public Higher Education, to study the inequities in retirement plans of institutions of public higher education.

WHEREAS, institutions of public higher education in the state have different primary retirement plans for members of their administration and instructional staffs; and

WHEREAS, the state contributes in different amounts to such retirement plans; and

WHEREAS, the benefits of such retirement plans differ; and

WHEREAS, a member of the administrative or instructional staff of an institution of public higher education may not elect a retirement plan in lieu of the institution's primary retirement plan; and

WHEREAS, the above appears to result in certain inequities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission, with the cooperation and assistance of the Council on Public Higher Education, is hereby directed to study the retirement plans of the institutions of public higher education in the state with respect to their differences in contributions and benefits.

Section 2. That the Legislative Research Commission is directed to report its findings together with any recommendation it may make relating to the elimination of inequities to the 1976 Regular Session of the General Assembly.

Section 3. The estimated cost of this study is \$3,000.

HR 49, A RESOLUTION proclaiming Law Day U. S. A.

WHEREAS, in order to rededicate Kentuckians to the principles of the democratic form of government;
and

WHEREAS, to emphasize that ours is a government of law, and not of men; and

WHEREAS, to further the philosophy that "the welfare of the people shall be the supreme law;"

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor of the Commonwealth of Kentucky is hereby requested to designate and dedicate the first day of May of each year as Law Day U. S. A.

Section 2. That it is not the purpose of this resolution to declare another legal holiday, but a day for rededication by the citizens of Kentucky to the principles of democracy, a respect for law that is so vital to the democratic way of life, and to the support of our Commonwealth and federal courts which uphold and safeguard individual rights and liberties.

Section 3. That the clerk of the House shall cause a copy of this resolution to be transmitted to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 91, HB 489, HB 490, HB 497, HB 555, SB 45, SB 48.**

Calendar

HB 40 with Committee Substitute attached thereto, **HB 271** with Committee Amendment attached thereto, **HB 310, HB 520, SB 105, HB 210, HB 495** with Committee Amendment attached thereto, **HB 508, HB 289, HB 68** with Committee Substitute attached thereto, and **HB 125** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Swinford moved the adoption of the following Legislative Citation No. 93:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Coach Woodie Crum and the Harrison County Thoroughbreds for their win over Bryan Station High School, 70-69, on Friday, February 15, 1974, and extends best wishes for future success. (Sponsored by Representative Swinford)

Agreed.

Representative Foster moved the adoption of the following Legislative Citation No. 91:

The House of Representatives of the Commonwealth of Kentucky hereby honors Mrs. Margaret Sullivan Berg for thirty years of service as County Extension Agent in Home Economics. This body commends Mrs. Berg for the many contributions she has made to the homes in Logan County. Mrs. Berg has met the changing needs and interests of homemakers with quality programs, and she has inspired women to take pride in homemaking, service to the community and the assumption of leadership roles.

This body recognizes the far-reaching influence of Mrs. Berg and extends to her best wishes. (Sponsored by Representative Foster)

Agreed.

Representative Little moved the adoption of the following Legislative Citation No. 96:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Suzanne Robinson as the 1974 Valedictorian of Virgie High School. This body commends Miss Robinson for this achievement and extends best wishes for future success. (Sponsored by Representative Little)

Agreed.

Representative Little moved the adoption of the following Legislative Citation No. 97:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Darlene Hall as a 1974 Salutatorian of Virgie High School. This body commends Miss Hall for this achievement and extends best wishes for future success. (Sponsored by Representative Little)

Agreed.

Representative Little moved the adoption of the following Legislative Citation No. 98:

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Ama Hopkins as a 1974 Salutatorian of Virgie High School. This body commends Miss Hopkins for this achievement and extends best wishes for future success. (Sponsored by Representative Little)

Agreed.

Representative Mason moved the adoption of the following Legislative Citation No. 46:

The House of Representatives of the Commonwealth of Kentucky hereby commends Mr. Jerald L. Chase, director of the Shelby County High School Advanced Choir, for his many achievements in music and for the fine performance of this choir in the Rotunda of the Capitol, February 20, 1974. (Sponsored by Representative Mason)

Agreed.

Representative Mason moved the adoption of Legislative Citations No. 45 and Nos. 49-90 commending the following members of the Shelby County High School Advanced choir for their fine performance in the Rotunda of the Capitol on February 20, 1974:

Bill Beach, Kenny Bennett, Mary Ann Black, Jennifer Bolin, Mark Brooks, Cindy Clifford, Kristie Conn, Vince Connor, John Davis, Steve Ellis, Barbara Figg, Charlene Floyd, Becky Gibbs, Bobby Greer, Anthony Hatchell, Bookie Hayes, Candy Hearn, Martha Heightchew, Tammy Hockensmith, Elaine Husband, Becky Jackson, Resa Lancaster, Debbie Langley, Anne Maxwell, Robert Myles, Kim Nutt, David Osborne, Denise Puckett, Marla Quire, Tim Rankin, Debbie Ratliff, Yolande Reed, Lauren Stewart, Belinda Taylor, Barry Terrell, Rusty Tipton, Teresa Tipton, Marsha Warford, Sandra Wentworth, Winfred Williams, Jerry Yeager, Sherry Yeager

Agreed.

Representative McBride moved that **HB 50** be referred to the Committee on Appropriations and Revenue.

Representative Van Horn moved that the motion that **HB 50** be referred to the Committee on Appropriations and Revenue be laid on the table.

On the roll call the vote was yeas 29-Bennett, Benson, Blandford, Blume, R. Brown, Burch, Chandler, Clapp, Dietz, Donnermeyer, Dunn, Givhan, Graves, Isler, Kafoglis, Kareem, Kenton, Little, Maynard, McBrayer, McGill, Morgan, Priddy, Romines, Siemens, Thomas, Van Horn, Wible, Yates. Nays 56-Allen, Arnold, Beshear, Blythe, Brewer, Bruce, Clarke, Crupper, DeMarcus, Denham, Foster, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, King, Lewis, Lindsay, Mann, Mason, May, McBride, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Ratliff, Reynolds, Richardson, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Vincent, Watkins, Wells, G. White, Whitfield.

The motion that the motion that **HB 50** be referred to the Committee on Appropriations and Revenue be laid on the table was rejected.

Speaker Pro Tempore Paxton presiding.

Speaker Blume presiding.

On the roll call the vote was yeas 52-Adams, Allen, Arnold, Beshear, Blythe, Bowles, Brewer, Clarke, Crupper, Davis, DeMarcus, Denham, Foster, Gay, Guenther, Hardin, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, King, Lindsay, Loudon, Mann, May, McBride, O'Brien, Overstreet, Pearman, Paxton, Ratliff, Reynolds, Richardson, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Turner, Vincent, Watkins, Wells, G. White, Whitfield. Nays 43-Bennett, Benson, Blandford, Blume, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Dawahare, Dietz, Donnermeyer, Dunn, Givhan, Graves, Hancock, Harris, Hughes, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Little, Maynard, McBee, McBrayer, McGill, Morgan, Nett, Priddy, Quickert, Roberts, Romines, Siemens, Thomas, Troop, Van Horn, Wible, Yates.

The motion that **HB 50** be recommitted to the Committee on Appropriations and Revenue was adopted.

Orders of the Day

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 313** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Paxton moved the adoption of the following Floor Amendment No. 1 to **HB 313**:

Amend printed copy of House Bill 313 page 2, line 2 after the word "injunction" to add the following "*unless the employees or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.*"

Agreed.

Representative Paxton moved that **HB 313** be placed upon its passage as amended.

On the roll call the vote was yeas 65-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Hancock, Harris, Head, Hurst, Isler, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Ratliff, Richardson, Roberts, Romines, Sale, Siemens, Stone, Swinford, Thomas, Van Horn, Watkins, G. White, J. White, Wible, Yates. Nays 23-Bowles, Davis, Foster, Guenther, Hardin, Hellard, Holbrook, Holloway, Hopkins, Hughes, Imes, Kafoglis, McBee, Robinson, Schmaedecke, Schmidt, Sharpe, Smith, Troop, Turner, Vincent, Wells, Whitfield.

HB 313 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 313** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 128** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 333**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Richardson moved the adoption of Committee Amendment No. 1 to **HB 333**. Agreed.

Representative Richardson moved that **HB 333** as amended be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 3-Mason, Pearman, Turner.

HB 333 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 333** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HR 38** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Bruce moved that **HR 38** be placed upon its passage. Agreed.

Representative Swinford moved that the vote by which **HR 38** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 9**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the Committee Amendment No. 2 to **HB 9**. Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 3 to **HB 9**:

Amend printed copy of House Bill 9 page 5 by inserting the following between line 1 and line 2:

(a) The statement required in subsection (7) shall not be necessary in the event that said surface has been abandoned, in which event the applicant shall post a bond with the department in the amount equal to the assessed value of said property according to the records of the property valuation administrator. Said bond shall be held by the department for a period of five (5) years in the event any freehold interest holder shall come forward and claim his interest to the satisfaction of the department. After the period of five (5) years, the bond or any balance thereof shall be returned to the operator.

(b) Abandoned property as mentioned in subsection (7)(a) shall be defined as property which has not been fenced, farmed or cared for for a period of fifteen (15) years.

(c) In the event that the operator determines that there are more than five (5) freehold interest holders, the requirement of the statement in subsection (7) from all the freehold interest holders shall be satisfied by a statement of a majority of said interest holders accompanied by the affidavit of the operator as to the number

and names of the interest holders according to the best of his knowledge.

(8) The operator may, rather than furnishing the statements of aforementioned in subsection (7), post a bond with the department in double the amount of the assessed value of the surface of the property as found in the property valuation administrator's office for the benefit of the surface owners. Said bond shall be paid to the surface owners upon their request as their interest may appear in double the amount of the assessed value of their interest.

and on page 5, line 2 by striking "(8)" and substituting therefor "(9)"

On the roll call the vote was yeas 11-Clapp, Dawahare, Givhan, Holbrook, Lindsay, McGill, Pearman, Stewart, Troop, Turner, J. White. Nays 77-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Guenther, Hancock, Hellard, Hislope, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Smith, Stephens, Stone, Swinford, Thomas, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates.

The Floor Amendment No. 3 to **HB 9** was rejected.

Representative Overstreet moved that **HB 9** as amended be placed upon its passage.

On the roll call the vote was yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Van Horn, Vincent, Wells, G. White, Whitfield, Wible, Yates. Nays 9-Clapp, Head, Hurst, Pearman, Stewart, Troop, Turner, Watkins, J. White.

HB 9 as amended was passed and the title agreed to.

Representative Overstreet moved that the vote by which **HB 9** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Overstreet moved that a call of the roll be taken to show co-sponsors of **HB 9**. Agreed.

The following members voted to co-sponsor **HB 9**: Representatives Adams, Allen, Arnold, Bennett, Benson, Beshear, Blume, Blythe, Bowles, R. Brown, Burch, Chandler, Clarke, DeMarcus, Donnermeyer, Dunn, Givhan, Hislope, Hopkins, Hughes, Imes, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mann, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Overstreet, Priddy, Reynolds, Romines, Sale, Schmaedecke, Schmidt, Stephens, Stone, Swinford, Van Horn, Vincent, Wible, Yates.

Representative Schmaedecke moved that the rules be suspended for the purpose of making a motion that **HB 9** be known as "The Raymond Overstreet Bill". Agreed.

The Speaker announced that without objection the title of **HB 9** will be known as "The Raymond Overstreet Broad Form Deed Act of 1974."

Report on Enrolled Bills

The Committee on Enrollment reported **HB 7** and **HB 108** had been examined and found correctly enrolled. **HB 7** and **HB 108** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative Swinford moved that **HB 81**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Givhan moved the adoption of the Committee Substitute for **HB 81**. Agreed.

Representative Swinford moved that **HB 81**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 75-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Givhan, Guenther, Hancock, Hardin, Harris, Hellard, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, King, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Turner, Van Horn, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 5-Allen, Graves, McBee, Thomas, Vincent.

HB 81, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 81**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 88** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hughes moved that **HB 88** be placed upon its passage.

On the roll call the vote was yeas 84-Allen, Bennett, Benson, Beshear, Blandford, Blume, Brewer, E. Brown, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Arnold.

HB 88 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 88** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 97**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute for **HB 97**. Agreed.

Representative Burch moved that **HB 97**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 87-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HB 97, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 97**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 115**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute for **HB 115**. Agreed.

Representative Clarke moved that **HB 115**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 90-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 115, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 115**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 126** be deferred and that it retain its position in Orders of the Day. Agreed.

Speaker Pro Tempore Paxton presiding.

Representative Swinford moved that **HB 132** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Reynolds moved that **HB 132** be placed upon its passage.

On the roll call the vote was yeas 90-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 132 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 132** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 240** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Sale moved that **HB 240** be placed upon its passage.

On the roll call the vote was yeas 90-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kidd, King, Lewis, Lindsay,

Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 240 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 240** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 250** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kenton moved that **HB 250** be placed upon its passage.

On the roll call the vote was yeas 77-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, Denham, Donnermeyer, Dunn, Foster, Givhan, Graves, Hardin, Harris, Head, Hellard, Hislope, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 12-Brewer, Crupper, Hancock, Holbrook, Hurst, Lindsay, Overstreet, Rattliff, Richardson, Robinson, Stone, Vincent.

HB 250 was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 250** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 251** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Hellard moved the adoption of the following Floor Amendment No. 1 to **HB 251**:

Amend printed copy of House Bill 251 page 5, following line 20 and before line 21, insert the following:

"(1) There is hereby created the Kentucky Energy Authority which shall be an independent agency of state government. The Authority shall be composed of the Attorney General, Secretary of the Development Cabinet, Secretary of the Executive Department for Finance and Administration, Chairman of the Legislative Research Commission, and the Governor. The Governor shall serve as chairman of the Authority and vote as any other member. The chairman shall be responsible for establishing meeting dates. No salary or other compensation shall be allowed any member of the Kentucky Energy Authority as such a member. The Authority shall exercise power over contracts to design, construct, or operate development or demonstration projects. Official action of the Authority shall require approval of three (3) or more members."

on page 5, line 21, insert before the first word in the line the following: "(2)"

on page 5, line 22, strike out the word "Governor", and insert therefor "Kentucky Energy Authority"

on page 6, line 9, insert after the word "Cabinet" the following: "with approval of the Kentucky Energy Authority"

on page 8, line 7, insert after the word "Administration" the following: "with approval of the Kentucky Energy Authority"

on page 8, line 21, insert after the word "Cabinet" the following: "with approval of the Kentucky Energy Authority"

on page 9, line 10, insert after the word "Cabinet" the following: "with approval of the Kentucky Energy Authority"

on page 9, line 21, insert after the word "Cabinet" the following: "with approval of the Kentucky Energy Authority"

On the roll call the vote was yeas 29-Allen, Davis, DeMarcus, Gay, Hancock, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Maynard, Nett, O'Brien, Overstreet, Rattliff, Richardson, Robinson, Schmaedecke, Schmidt, Siemens, Stone, Thomas. Nays 60-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Bruce, Chandler, Clapp, Crupper, Dawahare, Denham, Donnermeyer, Dunn, Foster, Graves, Hardin, Harris, Head, Hislope, Imes, Isler, Kenton, Little, Louden, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Pearman, Paxton, Priddy, Quickert, Reynolds, Romines, Sale, Sharpe, Smith, Stephens, Stewart, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates.

The Floor Amendment No. 1 to **HB 251** was rejected.

Representative Swinford moved that **HB 251** be placed upon its passage.

On the roll call the vote was yeas 85-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, Denham, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 10-Allen, Clarke, Hopkins, Nett, O'Brien, Overstreet, Rattliff, Schmidt, Stone, Thomas.

HB 251 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 251** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 252, HB 301, HB 354, HB 367, HB 369, HB 372** with Committee Amendment attached thereto, **HB 390, HB 391** with Committee Amendment attached thereto, **HB 420, HB 429, HB 455, HR 54, and HR 56** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Hughes moved that the rules be suspended for action on a Resolution. Agreed.

Representative Brewer moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION honoring Paul Green.

WHEREAS, Paul Green, has distinguished himself as a playwright who explores the common humanity of us all; and

WHEREAS, he was awarded the Pulitzer Prize for his first full length play, "In Abraham's Bosom"; and

WHEREAS, he developed a new medium in American theater when he introduced the outdoor historical drama; and

WHEREAS, he has done much to promote the state of Kentucky through his outdoor dramas, "The Stephen Foster Story" and "Wilderness Road"; and

WHEREAS, he is a great humanitarian who is a critic of prejudice and an enemy of intolerance; and

WHEREAS, through his plays he has drawn favorable attention to the Commonwealth of Kentucky and the community of Berea; and

WHEREAS, the Honorable C. C. Hensley, Mayor, has proclaimed Thursday, February 21, 1974, as "Paul Green Day in Berea";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives makes due recognition of the accomplishments of Paul Green, and extends to him its congratulations and appreciation on the occasion of "Paul Green Day in Berea," Thursday, February 21, 1974.

Section 2. That the Clerk of the House of Representatives is hereby directed to send a copy of this resolution to Paul Green.

Agreed.

Representative Hughes moved that the rules be suspended for action on a Resolution. Agreed.

Representative Hughes moved the adoption of the following **HR 54**:

HR 54, A RESOLUTION inviting the Honorable Henry Jackson to address the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable Henry Jackson, United States Senator from Washington, be and he hereby is invited to address this House of Representatives when it convenes on Friday, February 22, 1974.

Agreed.

Representative Swinford moved that the rules be suspended for the purpose of making ajournment plans. Agreed.

Representative Swinford moved that when the House adjourns today, it do so by voice vote. Agreed.

Announcements

Representative Kleier requested that he be recorded as voting "yea" on **HB 97, HB 115, and HB 313**.

The following members filed Floor Amendments: Representative Hancock, Floor Amendment No. 3 to **HB 126**; Representative Schmaedecke, Floor Amendment No. 6 to **HB 50**; Representative Rattliff, Floor Amendment No. 2 to **HB 386**; Representative Kidd, Floor Amendment No. 1 to **HB 305**; Representative Imes, Floor Amendment No. 1 to **HB 252**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 632, by Representative Van Horn: AN ACT relating to payment of wages to employees.

HB 633, by Representatives Hopkins, Beshear, Kenton, and Stephens: AN ACT relating to urban county governments.

HB 634, by Representatives Beshear and Stephens: AN ACT relating to urban county government.

HB 635, by Representatives Kenton, Beshear and Stephens: AN ACT relating to urban county governments.

HB 636, by Representatives Beshear, Hopkins, Kenton, Stephens, and Van Horn: AN ACT relating to urban county governments.

HB 637, by Representatives Quickert, Bennett, Benson, Burch, Chandler, Dunn, Hughes, Karem, Kleier, Maynard, Nett, Priddy, Roberts, Siemens and Yates: AN ACT relating to fees and compensation of

public officers and employees.

HB 638, by Representative J. White: AN ACT relating to state holidays.

HB 639, by Representative Stephens: AN ACT relating to collective bargaining, arbitration and grievance procedures between boards of education and associations representing certificated personnel.

HB 640, by Representatives Blume, Benson, Burch, Chandler, Karem, Kleier, Maynard, McGill, Nett, and Quickert: AN ACT relating to school boards.

HB 641, by Representatives Donnermeyer, Siemens, Yates and Priddy: AN ACT relating to prevailing wages for construction of public works.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Public Utilities: **HB 438**.

State Government: **SB 56, SB 94, SB 58, SB 152, SB 154, SB 172**.

Highways and Traffic Safety: **HB 613, HB 595, HB 593**.

Appropriations and Revenue: **HB 411, HB 423, HB 447**.

Agriculture and Natural Resources: **HB 76, HB 166**.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 2**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to fluoridation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of Chapter 238 is created to read as follows:

The question of fluoridating the city owned water system shall be submitted to the legal voters of the city, if there shall be filed with the clerk of the county not less than forty-five (45) days prior to the general election, a petition calling for the submission of the question signed by at least twenty-five per cent (25%) of the qualified legal voters of the city as evidenced by the total number of votes cast at the then next preceding general election in such city in such manner that every registered voter may vote at the election upon said question for or against such question.

Section 2. A new section of Chapter 238 is created to read as follows:

(1) Said question to be voted upon shall be stated on the ballot without emblems and two spaces shall be left upon the right side of the ballot, one for votes favoring the proposition, to be designated by the word "Yes" and one for votes opposing it, to be designated by the word "No." The voter shall designate his vote by a cross mark placed opposite the word "Yes" or the word "No." In said election the form of the proposition shall be: "Are you in favor of fluoridating the public water system in _____ City?"

(2) The general election laws, including penalties for violations, shall apply to the election, except where these laws are inconsistent with this Act.

(3) The cost of the election shall be borne by the city.

Section 3. A new section of Chapter 238 is created to read as follows:

In event that in any city a majority of all the votes cast shall be cast against the question at any election at which said question is submitted, said question may not again be submitted to the legal voters of the city for a period of two years from the date of the election at which the question was submitted.

Section 4. A new section of Chapter 238 is created to read as follows:

If at any election at which such question is submitted as provided in this Act the majority of all votes cast, both for and against such question, shall be cast in favor of the question, the water shall be fluoridated.

The Committee Substitute for **HB 2** is as follows:

HB 2, AN ACT relating to fluoridation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 238 is created to read as follows:

The question of fluoridating a publicly owned water system shall be submitted to the legal voters of the area, if there shall be filed with the clerk of the county or counties not less than forty-five (45) days prior to the general election, a petition calling for the submission of the question signed by at least twenty-five percent (25%) of the qualified legal voters of the area as evidenced by the total number of votes cast at the then next preceding general election in such area in such manner that every registered voter may vote at the election upon said question for or against such question.

Section 2. A new section of KRS Chapter 238 is created to read as follows:

(1) Said question to be voted upon shall be stated on the ballot without emblems and two spaces shall be left upon the right side of the ballot, one for votes favoring the proposition, to be designated by the word "Yes" and one for votes opposing it, to be designated by the word "No." The voter shall designate his vote by a cross mark placed opposite the word "Yes" or the word "No." In said election the form of the proposition shall be: "Are you in favor of fluoridating the public water system."

(2) The general election laws, including penalties for violations, shall apply to the election, except where these laws are inconsistent with this Act.

(3) The cost of the election shall be borne by the political subdivision of the affected area.

Section 3. A new section of KRS Chapter 238 is created to read as follows:

In event that in any area a majority of all the votes cast shall be cast for or against the question at any election at which said question is submitted, said question may not again be submitted to the legal voters of the area for a period of two years from the date of the election at which the question was submitted.

Section 4. A new section of KRS Chapter 238 is created to read as follows:

If at any election at which such question is submitted as provided in this Act the majority of all votes cast, both for and against such question, shall be cast in favor of the question, the water shall be fluoridated.

Adjournment

Representative Swinford moved that the House adjourn until 4:00 P.M., Thursday, February 21, 1974. Agreed.

THURSDAY, FEBRUARY 21, 1974

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Robert J. Laughlin, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Hinkle, Smith and Yates.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Hinkle, Smith and Yates.

Representative Hughes moved that the reading of the Journal of February 20, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 642, by Representative Hellard: AN ACT relating to lobbyists.

HB 643, by Representatives Benson, Mason and Karem: AN ACT relating to interest on escrow accounts.

HB 644, by Representative Benson: AN ACT relating to food dating.

HB 645, by Representative Benson: AN ACT relating to food packaging.

HB 646, by Representative Lindsay: AN ACT proposing an amendment to the Constitution of Kentucky relating to the Judicial Branch of Government.

HB 647, by Representative Givhan: AN ACT relating to indigent persons accused of serious crime.

HR 59, by Representative Hislope: A RESOLUTION requesting a safety belt for the chair of the Speaker of the House of Representatives.

HR 60, by Representative Robinson: A CONCURRENT RESOLUTION memorializing Congress to create a system whereby payments are made to local jurisdictions in lieu of property taxes on national forest lands.

Report on Enrolled Bills

HB 7 and **HB 108** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 628**, **SB 128**.

Appropriations and Revenue: **HB 626**, **HB 630**.

Banking and Insurance: **SB 178**.

Cities: **HB 627**, **HB 633**, **HB 634**, **HB 635**, **HB 636**.

Counties and Special Districts: **HB 623**, **HB 637**.

Education: **HB 625**, **HB 640**, **SB 73**.

Elections and Constitutional Amendments: **HB 638**.

Health and Welfare: **SB 158**.

Highways and Traffic Safety: **HB 631**.

Judiciary: **SB 2, SB 90**.

Labor and Industry: **HB 622, HB 624, HB 632, HB 641, HB 639**.

State Government: **HB 629, SB 112, SB 119**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 408, HB 437, HB 516, HB 538, HB 561, HB 579, HB 597, HB 598, HB 611, HB 615, HR 47, HR 52, HR 55**.

Health and Welfare: **HB 84, HB 85, HB 256, HB 417, HB 443, HB 518, HB 492, HB 512, HB 526, HB 414, HB 469, HB 496, HB 539**.

Judiciary: **HR 24, HB 348, HB 454, HB 457, HB 519, HB 525, HB 532, HB 546, HB 548**.

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Highways and Traffic Safety: **HB 458**.

Judiciary: **HR 17, HB 94, HB 109, HB 111, HB 120, HB 122, HB 172, HB 187, HB 198, HB 227, HB 246, HB 285, HB 317, HB 325, HB 357, HB 374, HB 383, HB 394, HB 405, HB 440**.

Report of Committees

The Committee on Rules reported **HB 212, HB 343** with Committee Amendment attached thereto, **HB 407** with Committee Substitute attached thereto, **HB 210, HB 289, HB 310** and **HB 508** have been posted for passage in Orders of the Day, February 22, 1974.

The Committee on Rules reported **HB 20** has been recommitted to the Committee on Business Organizations and Professions for clarification.

The Committee on Rules reported **HB 375** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Appropriations and Revenue reported **HB 68** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implications.

The Committee on Rules reported **HB 495** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Agriculture and Natural Resources reported **HB 96** with Committee Amendments attached thereto, **HB 166, HB 441** with Committee Amendment attached thereto, **HB 462, HB 478**, and **HR 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 96, AN ACT providing for the Kentucky Trails System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 148 is created to read as follows:

This Act may be cited as the "Kentucky Trails System Act."

Section 2. A new section of KRS Chapter 148 is created to read as follows:

(1) In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the state, trails should be established in natural, scenic areas of the state, and in and near urban areas.

(2) The purpose of this Act is to provide the means for attaining these objectives by instituting a state system of scenic and recreation trails and by prescribing the methods and standards by which trails may be added to the system.

Section 3. A new section of KRS Chapter 148 is created to read as follows:

Except as otherwise required by the context, the following terms when used in this Act shall be construed respectively to mean:

(1) "Commissioner" means the commissioner of the Department of Parks.

(2) "Department" means the Department of Parks.

(3) "System" means the "Kentucky Trails System" as established in this Act and including all trails and trail segments, together with their rights-of-way.

(4) "Scenic easement" means a perpetual easement in land which is held for the benefit of the people of Kentucky, is specifically enforceable by its holder or beneficiary, and limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.

(5) "Political subdivision" means any county, incorporated city, or other political subdivision of the state.

Section 4. A new section of KRS Chapter 148 is created to read as follows:

The state system of trails shall be composed of:

(1) State scenic trails, which will be extended trails so located as to provide maximum potential for the appreciation of natural areas and for the conservation and enjoyment of the significant scenic, historic, natural, ecological, geological, and cultural qualities of the areas through which such trails pass. Each of these trails will be limited exclusively to foot use, except that the use of horses or non-motorized bicycles may also be permitted on segments of scenic trails where deemed appropriate by the department. Because of their extended length, the state scenic trails shall be supplemented by support facilities but only on that part of a trail which is in a state park, recreation area, or wildlife management area. Such support facilities may include, where deemed necessary and feasible, primitive shelters, fireplaces, safe water supply, and other related public-use facilities. These facilities shall comply with the state's health standards. No open wood fires shall be permitted on state scenic trails except in areas with support facilities specifically designated for such purpose.

(2) State recreation trails, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas. These trails may be of the following types: foot, horse, or non-motorized bicycles.

(3) Connecting or side trails, which will provide additional points of public access to state recreation trails, state scenic trails, or which will provide connections between such trails. They shall be of the nature of the trails they serve.

Section 5. A new section of KRS Chapter 148 is created to read as follows:

Criteria for establishing the different classes of trails named in Section 4 shall be as follows:

(1) State scenic trails shall traverse mostly scenic and natural areas and shall be of sufficient length that they cannot be travelled in one day or less. Scenic trails shall be narrow paths causing the minimum disturbance to the natural environment and shall be restricted to foot travel with all other modes of locomotion prohibited, except as set forth in subsection 4(1) and Section 13.

(2) Horse and bicycle trails shall have a surface and overhead clearance appropriate for their designated mode of locomotion. Motorized vehicles of any kind shall be barred from foot, horse, and bicycle trails, except as set forth in Section 13.

Section 6. A new section of KRS Chapter 148 is created to read as follows:

The following trails shall be included as the initial component of the Kentucky Trails System, as state scenic trails:

(1) Daniel Boone Trail - from Cumberland Gap through Bell, Knox, Laurel, Rockcastle, and Madison Counties to Boonesboro;

(2) Warriors Path Trail - branching off of the Daniel Boone Trail at or near Flat Lick in Knox County and continuing northward through Clay, Jackson, Estill, and Powell Counties to Indian Fields in Clark County; and

(3) Long Trail - from the state line in McCreary County in the vicinity of Tennessee's Pickett State Park northeastward through Whitley, Laurel, Jackson, Lee, Powell, Menifee, and Rowan Counties to a point

in Daniel Boone National Forest north of Morehead.

Section 7. A new section of KRS Chapter 148 is created to read as follows:

(1) State scenic trails shall be authorized and designated only by an act of the General Assembly.
 (2) The department may establish and designate state recreation trails on lands administered by the department and on lands under the jurisdiction of a state department, political subdivision, or private lands providing:

(a) Such trails are reasonably accessible to urban areas;
 (b) Such trails meet the criteria established in this Act and supplementary criteria as may be prescribed by the department; and
 (c) Fee simple, scenic easements, or other rights are obtained from private landowners through which a state recreation trail may pass. The department may establish and designate state recreation trails on lands under the jurisdiction of a federal agency, when in the opinion of the federal agency and the commissioner such lands may be so developed under the provisions of federal law and the provisions of subsections (a) and (b) of this Section.

(3) As provided in this Section, trails within park, forest, recreation areas, state natural areas, or any other public area may be established and designated state recreation trails by the department.

(4) Connecting or side trails within park, forest, recreation areas, or natural areas may be established, designated, and marked as components of a state recreation or state scenic trail.

Section 8. A new section of KRS Chapter 148 is created to read as follows:

The commissioner shall study and from time to time submit to the Governor and to the General Assembly proposals for additions to the state scenic trails system, as well as reports on state recreation trails that have been designated by the department, regarding rights-of-way that have been established and on the program for implementing this Act. Each proposal shall include a short statement on the significance of the various trails to the system.

Section 9. A new section of KRS Chapter 148 is created to read as follows:

The process of locating routes of trails in the system shall be as follows:

(1) For state scenic trails, the department shall select a route. The selected route shall be compatible with the preservation and enhancement of the environment it traverses. Reasonable effort shall be made to minimize any adverse effects upon adjacent landowners and users. Notice of the selected route shall be published by the department in a newspaper of general circulation in the area in which the trail is located, together with appropriate maps and descriptions. Such publication shall be prior to the recommendation by the department to the General Assembly.

(2) For state recreation trails and for connecting or side trails, the department shall select the route; provided, however, that when a route shall traverse land within the jurisdiction of a governmental unit or political subdivision, the department shall consult with such unit or such subdivision prior to its final determination for the location of the route.

(3) In selecting routes and implementing this Act, the department is encouraged to confer with the recognized and established organizations primarily interested in trail development, conservation, and outdoor recreation. Furthermore, the General Assembly encourages citizen participation in trail acquisition, construction, development, and maintenance where such activities will not conflict with the purpose of this Act.

(4) In the selection of the route for any trail, when the trail reaches an area of crop or fenced pasture land, the trail shall be so located as not to interfere in the growing of crops, or with the livestock, or pasture land and such trail may then follow existing farm roads. The owner of such farm lands may enter a written agreement with the department to grant permission for the crossing of such crop or pasture land.

Section 10. A new section of KRS Chapter 148 is created to read as follows:

All state agencies shall inform the commissioner of any proceedings, studies, or other activities which may affect any component of the system.

Section 11. A new section of KRS Chapter 148 is created to read as follows:

(1) The department shall review all formal declarations of railroad right-of-way abandonments by the Interstate Commerce Commission for possible inclusion in the state trails system. The commissioner shall, within 3 years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.

(2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way or similar properties having value for trail purposes may be made available for such use. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use.

(3) The fiscal court of any county shall notify the commissioner at least 3 months in advance of the date on which a county road is to be declared discontinued in accordance with KRS 178.070. The

commissioner shall consider the suitability of the road or segments of the road for inclusion in the state system of trails, and, if it is found to be suitable, he is empowered to reserve a right-of-way for scenic trail or recreational trail use.

Section 12. A new section of KRS Chapter 148 is created to read as follows:

Within the exterior boundaries of the right-of-way, the commissioner may acquire, on behalf of the state, lands in fee title, or interest in land in the form of scenic easements, or cooperative agreements. Acquisition of land or of interest therein may be by gift, purchase with donated funds, funds appropriated by the General Assembly, proceeds from the sale of bonds, exchange, assumption of property tax payments, or otherwise. Acquisition of land or interest therein shall be accomplished with all possible speed. In acquiring real property or the property interest therein, as defined in this Section, the power of eminent domain shall not be utilized to acquire a fee simple or lesser interests to more than 25 acres in any 1 mile of trail length. Such power shall not be used to acquire crop or fenced pasture land when such acquisition will interfere with the growing of crops, or with the livestock, or pasture land on the remaining property of the farm owner.

Section 13. A new section of KRS Chapter 148 is created to read as follows:

Within the exterior boundaries of the right-of-way, the natural vegetation shall be kept undisturbed except for any clearing required for construction of the trail, occasional vistas, or trail-use facilities described in Section 16. The department shall make every effort to avoid any use of the right-of-way that is incompatible with the purposes for which the trails were established. Development and management of each segment of the state trails system shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continual maximum benefits from the land. Other uses along the trail which will not substantially interfere with the nature and purposes of the trail may be permitted by the department; provided, however, no hunting of wild game shall be permitted on or along any section of the system except as authorized by the department; and provided, further, that the owner of real property adjacent to any part of the system may hunt with or without the department's authorization on that portion of the system which is adjacent to his property.

Section 14. A new section of KRS Chapter 148 is created to read as follows:

The use of motorized vehicles by the general public within the right-of-way of any state scenic or recreation trail shall be prohibited and nothing in this Act shall be construed as authorizing the use of motorized vehicles in these rights-of-way; provided, that the department shall establish regulations which shall authorize the use of motorized vehicles when such vehicles are required to meet emergencies where life or health is at risk, or to enable present or adjacent landowners or land users to have access to their lands or timber rights where no reasonable alternative method of access exists or could be constructed. Prosecution for violation of this section may be initiated by a peace officer who witnessed an offense in violation of this Section or by any private citizen who witnessed any violation of this Section who is willing to make the initial charge and testify for the state.

Section 15. A new section of KRS Chapter 148 is created to read as follows:

Any component of the system that is a part of any state park, recreation area, wildlife management area, or similar area shall be subject to the provisions of this Act and the Acts under which the other areas are administered, and in the case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

Section 16. A new section of KRS Chapter 148 is created to read as follows:

The department, in consultation with appropriate governmental agencies, and public and private organizations, shall establish a uniform marker for trails contained in the system. An additional appropriate symbol characterizing specific trails may be included on the marker. The markers shall be placed at all access points, together with signs indicating the modes of locomotion that are prohibited for the trail; provided, that where the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform marker shall be considered sufficient. The route of the trail and the boundaries of the right-of-way shall be marked with paint or other simple means.

Section 17. A new section of KRS Chapter 148 is created to read as follows:

The Kentucky Trails System shall be administered by the department according to the policies and criteria set forth in this Act. The department shall have the responsibility for maintaining the trails and building bridges, campsites, shelters, and related public-use facilities where required.

Section 18. A new section of KRS Chapter 148 is created to read as follows:

Segments of the state trails may be relocated when such relocation is deemed necessary to preserve or enhance the values for which the trails were established. Relocation may be accomplished by the department after consultation with other governmental agencies involved and following publication of notice in a newspaper of general circulation, together with maps and descriptions. In establishing the new location and right-of-way the procedures set forth in Sections 8 through 12, inclusive, shall be followed.

Section 19. A new section of KRS Chapter 148 is created to read as follows:

Nothing in this Act shall preclude a component of the state trails system from becoming a part of The National Trails System. The commissioner shall coordinate the state trails system with The National Trails

System and is directed to encourage and assist any federal studies for inclusion of the state's trails in The National Trails System. The commissioner may enter into written cooperative agreements for joint federal-state administration of a state component of The National Trails System, provided such agreements for administration of land uses are not less restrictive than those set forth in this Act.

Section 20. A new section of KRS Chapter 148 is created to read as follows:

Whoever violates, fails, neglects or refuses to obey any provision of this Act, or regulation, or order of the commissioner may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy; and provided, further, that whoever violates, fails, neglects, or refuses to obey any provision of this Act, or regulation, or order of the commissioner shall be punished by a fine of not more than \$50 for each day of such violation.

Section 21. A new section of KRS Chapter 148 is created to read as follows:

If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and to that end the provisions of this Act are declared to be severable.

The Committee Amendment No. 1 to **HB 96** is as follows:

Amend printed copy of House Bill 96, page 3, line 7, by adding the following after the word "or" and before the word "non-motorized": "off-road motorized vehicles or"

and on page 3, lines 8 and 9, by striking the words "deemed appropriate" and substituting therefore the words "specifically designated"

and on page 3, line 12, by striking the "," after the word "park" and substituting the word "or" and inserting a "." after the word "area"

and on page 3, lines 12 and 13, by striking the words "or wildlife management area."

and on page 3, line 24, by inserting after the word "horse," the words "off-road motorized vehicles" and striking the "." at the end of the line

and on page 3, between lines 24 and 25, by inserting "as specifically designated by the department."

and on pages 4 and 5 by striking Section 6 in its entirety and on page 5, line 12, by striking the number "7" and substituting "6"

and on page 5, lines 14 and 15 by striking subsection (1) in its entirety and substituting the following:
 "(1) State scenic trails shall be established and designated by the department on lands administered by the department and on lands under the jurisdiction of a state department, political subdivision, or private lands providing:

(a) Such trails are not located in nor traverse any state-owned wildlife management area; and

(b) Such trails meet the criteria established in this Act and supplementary criteria as may be prescribed by the department."

and on page 5, between lines 20 and 21, inserting the following: "(a) Such trails are not located in nor traverse any state-owned wildlife management area;"

and on page 5, line 21, by striking the "(a)" and substituting "(b)"

and on page 5, line 23, by striking the "(b)" and substituting "(c)"

and on page 5, line 26, by striking the "(c)" and substituting "(d)"

and on page 6, line 7, by striking "(a) and (b)" and substituting "(b) and (c)"

and on page 6, line 11, by inserting after the word "area" and before the word "may" the following: "excluding state-owned wildlife management areas"

and on page 6, line 17, by renumbering "Section 8" as "Section 7"

and on page 6, line 20, by striking the words "and to the General Assembly"

and on page 7, line 2, by renumbering "Section 9" as "Section 8"

and on page 7, lines 14 through 16, by striking the lines following the period in line 14

and on page 8, line 14, by renumbering "Section 10" as "Section 9"

and on page 8, line 19, by renumbering "Section 11" as "Section 10"

and on page 9, line 22, by renumbering "Section 12" as "Section 11"

and on page 10, lines 7 through 12, by striking those lines following the period in line 7

and on page 10, line 13, by striking that line and inserting in lieu thereof the following: "Such acquisition should not interfere with the growing of"

and on page 10, line 16, by renumbering "Section 13" as "Section 12"

and on page 11, line 6, by striking the words following "provided,"

and on page 11, line 7, by striking that line

and on page 11, line 8, by striking the words "authorized by the department; and provided, further,"

and on page 11, lines 10 and 11, by striking the words "with or without the department's authorization"

and on page 11, line 13, by renumbering "Section 14" as "Section 13"

and on page 11, line 22, by inserting after the word "risk," and before the word "or" the following: "for the maintenance of established trails,"

and on page 12, line 6, by renumbering "Section 15" as "Section 14"

and on page 12, line 9, by striking the words "wildlife management area"

and on page 12, line 15, by renumbering "Section 16" as "Section 15"

and on page 12, line 19, by striking the word "uniform"

and on page 13, lines 4, 12, and 24 by renumbering "Section 17", "Section 18", and "Section 19" as "Section 16", "Section 17", and "Section 18", respectively

and on page 14, lines 12 and 23, by renumbering "Section 20" and "Section 21" as "Section 19" and "Section 20", respectively.

The Committee Amendment No. 2 to **HB 96** is as follows:

Amend printed copy of House Bill 96, page 14, between lines 11 and 12 by inserting the following:

"Section 20. A new section of KRS Chapter 148 is created to read as follows:

Nothing in this Act shall be construed as authorizing any person to enter upon or use the land in any manner without the consent of the owner."

and on page 14, lines 12 and 23, by renumbering "Section 20" and "Section 21" as "Section 21" and "Section 22", respectively.

HB 166, AN ACT relating to the taking of birds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.320 is amended to read as follows:

(1) No person shall take any wild bird except game birds for which there is an open season, either under the laws of Kentucky and the regulations of the department or the laws of the United States. [, except those birds mentioned in subsection (2) of this section.] *Any person taking any wild bird or game birds must have a hunting license.*

[(2)] This chapter does not protect or in any way limit the taking of the crow, the starling, or the English sparrow, but any persons taking any of them must have a hunting license.]

[(2)](3) No person shall take, disturb or destroy the nest or eggs of any wild birds.

HB 441, AN ACT relating to coal mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 352 is created to read as follows:

(1) Every owner or operator of a mine which employs 50 or more workers shall have, on the premises, a vehicle which is suitable for transportation of sick or injured miners or other workers to a hospital or other medical facility.

(2) "Suitable vehicle" shall include an ambulance, station wagon, enclosed truck or van with suitable space for transportation of a victim in the supine position upon a stretcher, litter, or cot.

(3) Said vehicle shall be equipped with a stretcher, litter or ambulance cot, resuscitator and a first aid kit of the type approved by the U.S. Bureau of Mines. The vehicle shall be maintained in proper operating condition at all times.

(4) Any owner or operator of a mine who violates the provisions of this act shall be fined not less than \$50 nor more than \$1,000. Each day of failure to provide such a vehicle equipped in the manner specified shall be deemed a separate offense.

(5) The Department of Mines and Minerals shall, on or before the effective date of this act, notify all mine owners or operators coming within the purview of this act of the requirements set forth in the act. All owners or operators of mines covered by this act shall have 120 days from the effective date of the act with which to comply with its provisions. Failure of the department to give the notice required herein shall not affect liability hereunder.

Section 2. KRS 216.405 is amended to read as follows:

As used in KRS 216.415 to 216.485, unless a different meaning appears from the context:

(1) "Applicant" means any person, group, health facility, or health service requesting certificate of need or licensure for a health facility or health service.

(2) "Board" means the Kentucky Certificate of Need and Licensure Board.

(3) "Certificate of need" means an authorization by the board to an applicant to construct, expand, or modify a health facility, or to initiate, expand or modify a health service.

(4) "Construction or modification" means the erection, building, alteration, reconstruction, modernization, improvement, extension or establishment of a health facility or service, or the purchase or acquisition of diagnostic or therapeutic equipment, the inspection and supervision thereof, and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto, which:

(a) Requires the total capital expenditure in excess of one hundred thousand dollars (\$100,000); or

(b) Will either

1. Initiate or expand the scope or type of services rendered, or

2. Increase or decrease the bed complement of a health facility or health service.

(5) "Department" means the Kentucky Department of Health.

(6) "Health facility and health services" means any program, institution, place, building, or agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care to any person or persons. This shall

include, but shall not be limited to health facilities and health services commonly referred to as hospitals, extended care and recuperation centers, nursing homes, personal care homes, homes for the aged and infirm, intermediate care facilities, outpatient clinics, ambulatory care facilities, emergency care centers and services, community mental health and mental retardation centers, home health agencies, health maintenance organizations and others providing similarly organized services regardless of nomenclature. *Emergency care centers and services shall not include ambulance services for coal mines as provided in Section 1 of this act.*

(7) "License" means an authorization to an applicant to operate a health facility or health service.

(8) "Regional health planning council" means the designated health planning body for the established regions within the Commonwealth, as provided under Public Law 89-749.

(9) "State health planning commission and state health planning council" means the designated agency and advisory council established to comply with Public Law 89-749 and subsequent amendments.

The Committee Amendment to **HB 441** is as follows:

Amend printed copy of House Bill 441, page 1, line 7, after the word "facility." to add the following: "This requirement shall apply only in situations where the owner or operator does not have a contract or other arrangement with a provider of ambulance service and such ambulance can reach the mine within 30 minutes after notification of an emergency."

HB 462, AN ACT relating to State Land Use Planning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 147 is created to read as follows:

It is the legislative intent that, in order to protect the natural resources and environment of the Commonwealth, and to insure a water management system that will prevent, and reverse whenever necessary, the deterioration of water quality and provide optimum utilization of our limited water resources, and to facilitate orderly and well planned development, and to protect the health, welfare, safety, and quality of life of the residents of Kentucky, it is necessary to adequately plan for and guide growth and development within the Commonwealth. In order to accomplish these purposes, it is necessary that the Commonwealth of Kentucky establish land and water management policies to guide and coordinate state, interstate and local decisions relating to growth and development, and that such state land and water management policies should to the maximum possible extent be implemented by local governments through processes for the guidance of growth and development, and that all the existing rights of private property be preserved in accord with the constitution of Kentucky and of the United States.

Section 2. A new section of KRS Chapter 147 is created to read as follows:

There is hereby created a Council for Land Use Planning (hereinafter referred to as the "Council"). The Council shall be composed of 15 members appointed by the Governor. The members of the Governor's Executive Cabinet shall be ex-officio members of the Council with voting rights. The 15 members appointed by the Governor shall represent a balance of interests in the Commonwealth. Such interests shall include: social; economic; environmental; rural; urban; local government; area development districts; members of the General Assembly; and any other interests determined to be essential by the Governor.

Section 3. A new section of KRS Chapter 147 is created to read as follows:

(1) All members of the Council shall be citizens eligible to vote in elections in the Commonwealth;

(2) The Council shall select one of its members as chairman, another as vice-chairman, and another as secretary at its first regular meeting;

(3) The Council may request and receive the assistance of any state or municipal educational institution, experiment station, or other agency when it is deemed necessary or beneficial by the Council in the performance of its duties;

(4) Staff services for the Council shall be performed, insofar as practical, by the Executive Department for Finance and Administration in cooperation with the Department for Natural Resources and Environmental Protection, and the Commissioner of the Executive Department for Finance and Administration shall appoint and employ in the manner prescribed by law such persons as may be needed for the performance of such staff services;

(5) The Council shall hold regular meetings at least once every three months, the time and place of which shall be determined by the Council. Special meetings may be called by the chairman or by four members of the Council by delivery to each member of the Council a written notice thereof at least five days in advance of the date of any such meeting. A majority of the members of the Council shall constitute a

quorum at any meeting. The Council shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all its proceedings;

(6) No salary or other compensation shall be allowed any appointed member of the Council, but each member may be reimbursed for actual and necessary expenses incurred in the performance of official duties;

(7) The Council shall be attached to the Executive Department for Finance and Administration for administrative purposes.

Section 4. A new section of KRS Chapter 147 is created to read as follows:

The Council shall be responsible for performing the following duties:

- (1) Establish such subcommittees as may be necessary and convenient;
- (2) Advise the Governor on any matters covered by the provisions of this Act;
- (3) Compile data and review literature necessary for decision-making concerning land use and resource management in the Commonwealth and make such data available to the general public;
- (4) Determine various means for the establishment of coordination, cooperation, and communication among federal, state, regional and local agencies, involved in land use decision-making and resource management, and the general public;
- (5) Determine a system of public education and involvement throughout the Commonwealth in order to acquaint the general public with land use issues and resource management matters;
- (6) Review and analyze the requirement that must be met by the Commonwealth in order to participate in and receive funds under any National Land Use Program;
- (7) Study methods of identifying and designating the following areas and activities within the Commonwealth that are of regional concern and outside the jurisdiction of local government;
 - (a) areas of critical environmental concern,
 - (b) development of regional benefit,
 - (c) large scale development,
 - (d) areas suitable for or which may be impacted by key facilities, and
 - (e) land sales and development projects;
- (8) Conduct public hearings to solicit public opinions, viewpoints and inputs for use in carrying out the duties of the Council;
- (9) Prepare and submit to the Governor and the General Assembly by November 1, 1975, a report of: work undertaken by the Council, and any findings; conclusions and recommendations including the structure of any state land use planning process; and methods for assuring the compatibility of any state land use planning legislation with National Land Use Planning Legislation. The report shall contain:
 - (a) Such proposals for changes in legislation as are recommended by the Council;
 - (b) Drafts of model development ordinances which will assist local governments in adopting development ordinances;
 - (c) Analyses of and comments on other relevant state and national commissioned studies and reports, and reports of public and private agencies;
 - (d) Review of and recommendations on, the current status and effectiveness of local and regional planning agencies with regard to land and water management; and
 - (e) Such other findings and recommendations as the Council chooses to make.
- (10) Submit to the Governor, the General Assembly, and make available for public distribution, such progress reports, data and information concerning land use, resource management and Council activities as the Governor or any committee of the General Assembly may require.

Section 5. A new section of KRS Chapter 147 is created to read as follows:

- (1) The Council shall be the Kentucky agency to fulfill Federal requirements for councils associated with Federal programs designed to provide support for state land use planning functions.
- (2) The Council is hereby authorized to accept gifts and grants for land use planning purposes, and to set priorities for the expenditure of state and federal monies for land use planning purposes, but all such monies shall be administered by the Executive Department for Finance and Administration.
- (3) The Council and the Commissioner for Finance and Administration are hereby authorized to take all steps necessary and appropriate to qualify the Commonwealth for the receipt of Federal grants for land use planning purposes.

Section 6. The Commissioner of the Executive Department for Finance and Administration shall allocate funds for the purposes of this Act from appropriations made to the State Planning Committee under the provisions of **HB 288**.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 260 is created to read as follows:

(1) No person, partnership, corporation, association, trust, or conglomerate business entity having gross annual sales in excess of three million dollars and engaged in the meat packing business or the wholesaling or retailing of red meat or livestock products or engaged in the processing, purchasing, selling, or handling of grain, legumes, or other field crops used as animal feeds shall directly or indirectly engage in farming or the agricultural production of livestock, grain, legumes or other field crops used as animal feeds, or control, or attempt to control, agricultural production through the ownership or leasing of land for agricultural purposes or by integration, merger or any other means of acquisition or control.

(2) Any person, partnership, corporation, association, trust, or conglomerate business entity subject to this Act lawfully engaged on the effective date of this Act in agricultural production or controls of agricultural production otherwise prohibited by this Act shall within two years of such effective date divest itself of all holdings, assets, and other interests in such production.

(3) Nothing in any provision of this Act shall be construed to prevent any creditor, legatee, beneficiary, or intestate successor subject to subsection (1) of this Act from lawfully acquiring, pursuant to forfeiture or laws of succession, land or other means of agricultural production or of control of such means of agricultural production, but any such creditor, legatee, beneficiary, or intestate successor shall divest itself of such land or other means of agricultural production or of control of such means of agricultural production within two years after acquisition.

(4) Notwithstanding any other provision of this Act:

(a) Any person, partnership, corporation, association, trust, or conglomerate business entity may conduct scientific experimental work or research with livestock, grain, legumes, or other field crops used as animal feeds for research purposes and may sell products resulting from such experimental work or research which do not have an aggregate sales value in excess of 500,000 dollars per year; and

(b) Any farmer may contract for future delivery of agricultural products individually, or with any producer-owned-and-controlled association organized or qualified to do business in Kentucky under KRS 272.100 to 272.350 as provided therein.

(5) Nothing in this Act shall apply to the following:

(a) Charitable or public institutions which engage in agricultural production for other than income purposes as a part of their function; or

(b) Educational institutions which engage in research as a part of their academic or extension activities.

Section 2. A new section of KRS Chapter 260 is created to read as follows:

(1) Any person, partnership, corporation, association, trust or conglomerate business entity which violates any provision of this Act shall be punished by a fine of not more than ten thousand dollars for each offense, and each day on which a violation occurs shall constitute a separate offense.

(2) In addition to any penalty provided in subsection (1), the Attorney General or the Commonwealth's Attorney in the judicial district in which a violation of this Act occurs or is threatened to occur shall have the authority to bring an action for an injunction against any person, partnership, corporation, association, trust, or conglomerate business entity violating or threatening to violate any provision of this Act.

Section 3. A new section of KRS Chapter 260 is created to read as follows:

In addition to any action provided in Section 2 of this Act, any person or class of persons who suffers any damage or injury or is threatened with any damage or injury by reason of a violation or threatened violation of any of the provisions of this Act may bring an action in the circuit court in the county in which the plaintiff or one of the plaintiffs resides for injunctive relief and for compensatory and exemplary damages and for reasonable attorneys' fees incurred in such action.

HR 2, A RESOLUTION expressing the need for a school of veterinary medicine in Kentucky.

WHEREAS, the Commonwealth of Kentucky is recognized and noted throughout the world for its horse and cattle industry; and

WHEREAS, there is presently no university or college within the Commonwealth which offers a course of study in veterinary medicine; and

WHEREAS, Kentucky students desiring instruction and training in veterinary medicine must be sent to other states to obtain their education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That it appears both necessary and appropriate for the Commonwealth to provide the facilities and the instructional personnel required for Kentucky students to attain the education prerequisite to licensing as doctors of veterinary medicine, and that the establishment of a school of veterinary medicine should be undertaken to meet both the training and education needs of Kentucky students and the special needs of the Commonwealth with regard to its horse and cattle industry.

The Committee on Banking and Insurance reported **HB 233** with Committee Amendment attached thereto, **HB 314** with Committee Substitute attached thereto, **HB 259** with Committee Amendment attached thereto, **HB 571**, and **SB 75** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 233, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.100 is amended to read as follows:

A Bank may:

- (1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;
- (2) Acquire and hold title to real estate, provided:
 - (a) Such real estate is necessary or appropriate for the transaction of legitimate business, and
 - (b) The cost of such real estate, including furniture and fixtures, shall not exceed 40 percent of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). The commissioner may permit the investment of a larger amount;
- (3) Acquire and hold for not longer than ten years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor;
- (4) Invest in the bonds of any Federal Home Loan Bank;
- (5) Invest in any bonds issued by or for federal land banks and any debentures issued by or for federal intermediate credit banks under the Act of Congress known as the "Federal Farm Loan Act," and amendments thereto, and any debentures issued by or for banks for cooperatives under the Act of Congress known as the "Farm Credit Act of 1933," and any amendments thereto;
- (6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business.
- (7) Purchase, hold, and convey the shares of any registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:
 - (a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;
 - (b) Bonds, or other interest bearing obligations issued or guaranteed as to the payment of principal and interest by any instrumentality presently or hereafter incorporated by authority of an Act of Congress.

The Committee Amendment to **HB 233** is as follows:

Amend printed copy of House Bill 233, page 2, line 14, and insert in section 7 line 14, after the word "any" the words "open end"

HB 314, AN ACT relating to establishment of a system of insurance and compensation irrespective of fault for victims of motor vehicle accidents, setting forth the basis for recovery and the elements thereof, and establishing an assigned claims plan to protect injured victims against uninsured losses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 304 is created to read as follows:

The declaration of legislative policy of this act is as follows:

The toll of about 20,000,000 motor vehicle accidents nationally and comparable experience in Kentucky upon the interests of victims, the public, policy-holders and others require that improvements in the reparations provided for herein be adopted to effect the following purposes:

(1) To require owners, registrants and operators of motor vehicles in the Commonwealth to procure insurance covering basic reparation benefits and legal liability arising out of ownership, operation or use of such motor vehicles;

(2) To provide prompt payment to victims of motor vehicle accidents without regard to whose negligence caused the accident in order to eliminate the inequities which fault-determination has created;

(3) To encourage prompt medical treatment and rehabilitation of the motor vehicle accident victim by providing for prompt payment of needed medical care and rehabilitation;

(4) To permit more liberal wage loss and medical benefits by allowing claims for intangible loss only when their determination is reasonable and appropriate;

(5) To reduce the need to resort to bargaining and litigation through a system which can pay victims of motor vehicle accidents without the delay, expense, aggravation, inconvenience, inequities and uncertainties of the liability system;

(6) To help guarantee the continued availability of motor vehicle insurance at reasonable prices by a more efficient, economical and equitable system of motor vehicle accident reparations;

(7) To create an insurance system which can more adequately be regulated; and

(8) To correct the inadequacies of the present reparation system, recognizing that it was devised and our present Constitution adopted prior to the development of the internal combustion motor vehicle.

Section 2. A new section of KRS Chapter 304 is created to read as follows:

As used in this act:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this act. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury and injury to person to any one person as the result of one accident shall be \$10,000, regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this act; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this act: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic loss is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. The term includes a total charge not in excess of \$1,000 per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky.

(b) "Work loss" means loss of income from work the injured person would have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him or by income he would have earned in available appropriate substitute work he was capable of performing but unreasonably failed to undertake.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means:

(a) A vehicle of a kind required to be registered under KRS Chapter 186.

(8) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(9) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(10) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(11) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(12) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this act.

(13) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(14) A "User" means a person who is a basic reparation insured or would be a basic reparation insured if such person had not rejected the limitations upon his tort rights as provided in Section 6 (4).

(15) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

Section 3. A new section of KRS Chapter 304 is created to read as follows:

(1) If the accident causing injury occurs in this Commonwealth every person suffering loss from injury arising out of maintenance or use of a motor vehicle has a right to basic reparation benefits, unless he has rejected the limitation upon his tort rights as provided in Section 6 (4).

(2) If the accident causing injury occurs outside this Commonwealth but within the United States, its territories and possessions, or Canada, the following persons and their survivors suffering loss from injury arising out of maintenance or use of a motor vehicle have a right to basic reparation benefits:

(a) Basic reparation insureds; and

(b) The driver and other occupants of a secured vehicle who have not rejected the limitation upon their tort rights, other than (i) a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership, or (ii) a vehicle owned by an obligated government other than this Commonwealth, its political subdivisions, municipal corporations, or public agencies.

Section 4. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic reparation benefits shall be paid without regard to fault.

(2) Basic reparation obligors and the assigned claims plan shall pay basic reparation benefits, under the terms and conditions stated in this act, for loss from injury arising out of maintenance or use of a motor vehicle. This obligation exists without regard to immunity from liability or suit which might otherwise be applicable.

Section 5. A new section of KRS Chapter 304 is created to read as follows:

(1) The basic reparation insurance applicable to bodily injury to which this act applies is the security covering the vehicle occupied by the injured person at the time of the accident or, if the injured person is a pedestrian, the security covering the vehicle which struck such pedestrian. If the reparation obligor providing such insurance fails to make payment for loss within thirty days after receipt of reasonable proof of the fact and the amount of loss sustained, the injured person shall be entitled to payment under any contract of basic reparation insurance under which he is a basic reparation insured and the insurer making such payments shall be entitled to full reimbursement from the reparation obligor providing the security covering the vehicle.

(2) If there is no security covering the vehicle, any contract of basic reparation insurance under which the injured person is a basic reparation insured shall apply.

(3) No person shall recover basic reparation benefits from more than one reparation obligor as a result of the same accident.

Section 6. A new section of KRS Chapter 304 is created to read as follows:

(1) Any person who registers, operates, maintains or uses a motor vehicle on the public roadways of this Commonwealth shall, as a condition of such registration, operation, maintenance or use of such motor vehicle and use of the public roadways, be deemed to have accepted the provisions of this act, and in particular those provisions which are contained in this section.

(2) Tort liability with respect to accidents occurring in this Commonwealth and arising from the ownership, maintenance, or use of a motor vehicle is abolished except as to:

(a) Liability of the owner of a motor vehicle involved in an accident if security covering the vehicle was not provided at the time of the accident;

(b) Liability of a person in the business of manufacturing, repairing, servicing, or otherwise maintaining motor vehicles arising from a defect in a motor vehicle caused or not corrected by an act or omission in the manufacturing, repairing, servicing, or otherwise maintaining of a vehicle in the course of his business;

(c) Liability of a person for intentionally caused injury to a person;

(d) Liability of a person for damage to property;

(e) Damages for any work loss, replacement services loss, survivor's economic loss, and survivor's replacement services loss, not recoverable as basic reparation benefits by reason of the monetary limitations contained in this act;

(f) Damages for noneconomic detriment if the accident causes death, significant permanent injury, serious permanent disfigurement, or more than three months of complete inability of the injured person to work in an occupation, or if the injured person incurs medical expenses having a reasonable value in excess of \$1,250. "Complete inability of an injured person to work in a occupation" means inability to perform, on even a part-time basis, even some of the duties required by his occupation or, if unemployed at the time of injury, by any occupation for which the injured person was qualified. "Reasonable value" means the average cost of specific types of services included under medical expenses, as defined in this act, in the Commonwealth of Kentucky as determined from statistical data compiled by the commissioner of insurance and published not less than once each year; and

(g) Injury to a person who is not an owner, operator, maintainer or user of a motor vehicle within subsection (1) of this section. However, any person who presents a claim for and receives payments from any basic reparation obligor shall be deemed to have elected to limit his tort rights as provided for all other persons by this section.

(3) For purposes of this section and the provisions on reparation obligor's rights of reimbursement, subrogation, and indemnity, a person does not intentionally cause harm merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

(4) Any person may refuse to consent to the limitations of his tort rights and liabilities as contained in this section. Such rejection must be in writing in a form to be prescribed by the department of transportation and must have been executed at a time prior to any motor vehicle accident for which such rejection is to apply. Rejection by a person who is under legal disability shall be made on behalf of such person by his legal guardian or his natural parent. The failure of such guardian or a natural parent of a person under legal disability to file a rejection, within six months from the date that this act would otherwise become applicable to such person, shall be deemed to be an affirmative acceptance of all provisions of this act.

(5) Any rejection must be filed with the department of transportation and shall be for a period of five years from the date of its execution unless revoked in writing. A copy of such rejection or revocation must be filed with each insurance company providing an automobile policy under which the individual is a named insured as defined in the policy at least thirty days prior to the effective date of the rejection or revocation.

(6) Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his right to reject the limitations of his tort rights and liabilities under this act.

(7) Any rejection shall result in the full retention by the individual of his tort rights and his tort liabilities. Any person injured by a motor vehicle operator who has such rejection on file may collect his full damages, including nonpecuniary damages, or, if such injured person has not rejected his own tort limitations, he may also collect basic reparation benefits from the appropriate security on the vehicle as established under Section 5. If such provider of security is other than the one providing security for the operator who has rejected the limitations, such provider shall be subrogated to the rights of the injured person to the extent of reparation benefits paid against the owner and operator or the vehicle.

(8) No person who has rejected the tort limitations under this section, except as provided in subsection (9), may collect basic reparation benefits.

(9) Any owner or operator of a motorcycle, as defined in Kentucky Revised Statutes, may file a rejection as described in subsections (4) and (5), which will apply solely to the ownership and operation of a

motorcycle but will not apply to injury resulting from the ownership, operation or use of any other type of motor vehicle.

Section 7. A new section of KRS Chapter 304 is created to read as follows:

(1) "Secured person" means the owner, operator or occupant of a secured motor vehicle, and any other person or organization legally responsible for the acts or omissions of such owner, operator or occupant.

(2) A reparation obligor which has paid or may become obligated to pay basic reparation benefits shall be subrogated to the extent of its obligations to all of the rights of the person suffering the injury against any person or organization other than a secured person.

(3) A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection. The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to Section 30, sixty days after said claim has been presented to the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association as provided in Section 30.

(4) A release by the injured party does not release the rights of the reparation obligor under this section.

Section 8. A new section of KRS Chapter 304 is created to read as follows:

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies shall continuously provide, pursuant to subsection (4), security for the payment of basic reparation benefits in accordance with this act for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this act for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner of a motor vehicle registered in this Commonwealth or operated in this Commonwealth by him or with his permission, shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this act and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this act.

(7) Self-insurance, subject to approval of the commissioner of insurance, is effected by filing with the commissioner in satisfactory form:

(a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this act;

(b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this act; and

(c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this act, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this act.

(8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this act; and

(9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

Section 9. A new section of KRS Chapter 304 is created to read as follows:

An owner of a motor vehicle registered in this Commonwealth who ceases to maintain security as required by the provisions on security may not operate or permit operation of the vehicle in this Commonwealth until security has again been provided as required by this act.

Section 10. A new section of KRS Chapter 304 is created to read as follows:

(1) An insurance contract which purports to provide coverage for basic reparation benefits or is sold with representation that it provides security covering a motor vehicle has the legal effect of including all coverages required by this act.

(2) An insurer authorized to transact or transacting business in this Commonwealth shall file with the commissioner of insurance as a condition of its continued transaction of business within this Commonwealth a form approved by the commissioner of insurance declaring that in any contract of liability insurance for injury, wherever issued, covering the ownership, maintenance or use of a motor vehicle while the vehicle is in this Commonwealth shall be deemed to provide the basic reparation benefits coverage and minimum security for tort liabilities required by this act, except a contract which provides coverage only for liability in excess of required minimum tort liability coverage. Any non-admitted insurer may file such form.

Section 11. A new section of KRS Chapter 304 is created to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Liability coverage of not less than \$10,000 for all damages arising out of bodily injury sustained by any one person as a result of any one accident, and not less than \$20,000 for all damages arising out of bodily injury sustained as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) Liability coverage of not less than \$5,000 for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; and

(c) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada.

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this act, it must be subject to conditions consistent with the system of required liability insurance established by this act.

Section 12. A new section of KRS Chapter 304 is created to read as follows:

(1) All benefits or advantages a person receives or is entitled to receive because of the injury from social security and workmen's compensation are subtracted in calculating net loss.

(2) If a benefit or advantage received to compensate for loss of income because of injury, whether from basic reparation benefits or from any source of benefits or advantages subtracted under subsection (1), is not taxable income, the income tax saving that is attributable to his loss of income because of injury is subtracted in calculating net loss. Subtraction may not exceed fifteen per cent (15%) of the loss of income and shall be in a lesser amount if the claimant furnishes to the insurer reasonable proof of a lower value of the income tax advantage.

Section 13. A new section of KRS Chapter 304 is created to read as follows:

Basic reparation benefits payable for work loss, survivor's economic loss, replacement services loss, and survivor's replacement services loss arising from injury to one person and attributable to the calendar week during which the accident causing injury occurs and to each calendar week thereafter may not exceed \$200, prorated for any lesser period. If the injured person's earnings or work are seasonal or irregular, the weekly limit shall be equitably adjusted or apportioned on an annual basis.

Section 14. A new section of KRS Chapter 304 is created to read as follows:

(1) On and after the effective date of this act, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to provide optional reparation benefits for economic loss in units of \$10,000 per person subject to the lesser of:

(a) \$40,000 in added reparation benefits, or

(b) The limit of security provided for liability to any one person in excess of the requirements of subsection (1)(a) of Section 11.

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under optional reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation insurer shall be subrogated, subject to Sections 7 and 30, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under Section 6 of this act from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of added reparation benefits paid to or in behalf of such injured person or persons.

(4) Basic reparation insurers shall make available upon request deductibles in the amounts of \$250, \$500, and \$1,000 from all basic reparation benefits otherwise payable, except that if two or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount

than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

Section 15. A new section of KRS Chapter 304 is created to read as follows:

Terms and conditions of contracts and certificates or other evidence of insurance coverage sold or issued in this Commonwealth providing motor vehicle tort liability, basic reparation, and added reparation insurance coverages, and of forms used by insurers offering these coverages, are subject to approval and regulation by the commissioner of insurance. The commissioner shall approve only terms and conditions consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected.

Section 16. A new section of KRS Chapter 304 is created to read as follows:

(1) A person entitled to basic reparation benefits because of injury covered by this act may obtain them through the assigned claims plan established pursuant to the provisions relating thereto and in accordance with the provisions on time for presenting claims under the assigned claims plan if:

(a) Basic reparation insurance is not applicable to the injury for a reason other than those specified in the provisions on converted vehicles and intentional injuries;

(b) Basic reparation insurance applicable to the injury cannot be identified;

(c) Basic reparation insurance applicable to the injury is inadequate to provide the contracted-for benefits because of financial inability of a reparation obligor to fulfill its obligations; or

(d) A claim for basic reparation benefits is rejected by a reparation obligor for a reason other than that the person is not entitled under this act to the basic reparation benefits claimed.

(2) If a claim qualifies for assignment under paragraphs (c) or (d) of subsection (1), the assigned claims bureau or any reparation obligor to whom the claim is assigned is subrogated to all rights of the claimant against any reparation obligor, its successor in interest or substitute, legally obligated to provide basic reparation benefits to the claimant, for basic reparation benefits provided by the assignee.

(3) Except in case of a claim assigned under subsection (1)(d), if a person receives basic reparation benefits through the assigned claims plan, all benefits or advantages he receives or is entitled to receive as a result of the injury, other than by way of succession at death, death benefits from life insurance, or in discharge of familial obligations of support, are subtracted in calculating net loss.

(4) A person who sustains injury while occupying a motor vehicle owned by such person and with respect to which security is required by the provisions on security and who fails to have such security in effect at the time of an accident in this Commonwealth causing such injury, shall not obtain through the assigned claims plan basic reparation benefits, including benefits otherwise due him as a survivor, unless such person's failure to have such security in effect at the time of such accident was solely occasioned by the failure of the liability insurer of such person to provide the basic reparation benefits required by this act.

Section 17. A new section of KRS Chapter 304 is created to read as follows:

(1) Reparation obligors providing basic reparation insurance in this Commonwealth may organize and maintain, subject to approval and regulation by the commissioner of insurance, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable basis consistent with this act. If they do not organize and continuously maintain an assigned claims bureau and an assigned claims plan in a manner considered by the commissioner of insurance to be consistent with this act, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each reparation obligor providing basic reparation insurance in this Commonwealth shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the reparation obligors.

(2) The assigned claims bureau shall promptly assign each claim and notify the claimant of the identity and address of the assignee of the claim. Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic reparation insurance complying with this act applicable to the injury or, in case of financial inability of a reparation obligor to perform its obligations, as if the assignee had written the applicable basic reparation insurance, undertaken the self-insurance, or lawfully obligated itself to pay reparation benefits.

Section 18. A new section of KRS Chapter 304 is created to read as follows:

(1) Except as provided in subsection (2), a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within the time that would have been allowed for commencing an action for those benefits if there had been identifiable coverage in effect and applicable to the claim.

(2) If timely action for basic reparation benefits is commenced against a reparation obligor who is unable to fulfill his obligations because of financial inability, a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within six months after discovery of the financial inability.

Section 19. A new section of KRS Chapter 304 is created to read as follows:

A person who converts a motor vehicle is disqualified from basic or added reparation benefits, including benefits otherwise due him as a survivor, from any source other than an insurance contract under which the converter is a basic or added reparation insured, for injuries arising from maintenance or use of the converted vehicle. If the converter dies from the injuries, his survivors are not entitled to basic or added reparation benefits from any source other than an insurance contract under which the converter is a basic reparation insured. For the purpose of this section, a person is not a converter if he uses the motor vehicle in the good faith belief that he is legally entitled to do so.

Section 20. A new section of KRS Chapter 304 is created to read as follows:

A person intentionally causing or attempting to cause injury to himself or another person is disqualified from basic or added reparation benefits for injury arising from his acts, including benefits otherwise due him as a survivor. If a person dies as a result of intentionally causing or attempting to cause injury to himself, his survivors are not entitled to basic or added reparation benefits for loss arising from his death. A person intentionally causes or attempts to cause injury if he acts or fails to act for the purpose of causing injury or with knowledge that injury is substantially certain to follow. A person does not intentionally cause or attempt to cause injury merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person.

Section 21. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen days after the period of accumulation. If reasonable proof is supplied as to only part of a claim, and the part totals \$100 or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant.

(2) Overdue payments bear interest at the rate of twelve per cent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen per cent (18%) per annum.

(3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.

(4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured under this subsection against any basic or added reparation benefits otherwise due.

(5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

Section 22. A new section of KRS Chapter 304 is created to read as follows:

(1) If overdue benefits are recovered in an action against the reparation obligor or paid by the reparation obligor after receipt of notice of the attorney's representation, a reasonable attorney's fee for advising and representing a claimant on a claim or in an action for basic or added reparation benefits may be awarded by the court if the denial or delay was without reasonable foundation. No part of the fee for representing the claimant in connection with these benefits is a charge against benefits otherwise due the claimant. All or part of the fee may be deducted from the benefits otherwise due the claimant if any significant part of his claim for benefits was fraudulent or so excessive as to have no reasonable foundation.

(2) In any action brought against the insured by the reparation obligor, the court may award the insured's attorney a reasonable attorney's fee for defending the action.

Section 23. A new section of KRS Chapter 304 is created to read as follows:

A reparation obligor may be allowed a reasonable attorney's fee for defending a claim for benefits that is fraudulent or so excessive as to have no reasonable foundation. The fee may be treated as an offset to benefits due or which thereafter accrue. The reparation obligor may recover from the claimant any part of the fee not offset or otherwise paid.

Section 24. A new section of KRS Chapter 304 is created to read as follows:

(1) If no basic or added reparation benefits have been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two (2) years after the injured person suffers the loss and either knows, or in the exercise of reasonable diligence should know, that the loss was caused by the accident, or not later than four years after the accident, whichever is earlier. If basic or added reparation benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two years after the last payment of benefits.

(2) If no basic or added reparation benefits have been paid to the decedent or his survivors, an action for survivor's benefits may be commenced not later than one year after the death or four years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two years after the last payment of benefits. If basic or added reparation benefits have been paid for loss suffered by an injured person before his death resulting from the injury, an action for survivor's benefits may be commenced not later than one year after the death or four years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic reparation benefits is commenced against a reparation obligor and benefits are denied because of a determination that the reparation obligor's coverage is not applicable to the claimant under the provisions on priority of applicability of basic reparation security, an action against the applicable reparation obligor or the assigned claims bureau may be commenced not later than sixty days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as subsections (1), (2), or (3) prescribe a longer period, an action by a claimant on an assigned claim which has been timely presented may be commenced not later than sixty days after the claimant received written notice of rejection of the claim by the reparation obligor to which it was assigned.

(5) If a person entitled to basic or added reparation benefits is under legal disability when the right to bring an action for the benefits first accrues, the period of his disability is not a part of the time limited for commencement of the action.

Section 25. A new section of KRS Chapter 304 is created to read as follows:

An assignment of or agreement to assign any right to benefits under this act for loss accruing in the future is unenforceable except as to benefits for:

(a) Work loss to secure payment of alimony, maintenance, or child support; or

(b) Medical expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

Section 26. A new section of KRS Chapter 304 is created to read as follows:

Except as otherwise provided in this act, basic reparation benefits shall be paid without deduction or set-off.

Section 27. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic or added reparation benefits for medical expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon a claim of a creditor who has provided products, services, or accommodations.

(2) Basic reparation benefits other than those for medical expense are exempt from garnishment, attachment, execution, and any other process or claim to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from process or claims.

Section 28. A new section of KRS Chapter 304 is created to read as follows:

(1) If the mental or physical condition of a person is material to a claim for past or future basic or added reparation benefits, the reparation obligor may petition the circuit court for an order directing the person to submit to a mental or physical examination by a physician. Upon notice to the person to be examined and all persons having an interest, the court may make the order for good cause shown. The order shall specify the time, place, manner, conditions, scope of the examination, and the physician by whom it is to be made.

(2) If requested by the person examined, the reparation obligor causing a mental or physical examination to be made shall deliver to the person examined a copy of a detailed written report of the examining physician setting out his findings including results of all tests made, diagnoses, and conclusions, and reports of earlier examinations of the same condition. By requesting and obtaining a report of the examination ordered or by taking the deposition of the physician, the person examined waives any privilege he may have, in relation to the claim for basic or added reparation benefits, regarding the testimony of every other person who has examined or may thereafter examine him respecting the same condition. This subsection does not preclude discovery of a report of an examining physician, taking a deposition of the physician, or other discovery procedures in accordance with any rule of court or other provision of law. This subsection applies to examinations made by agreement of the person examined and the reparation obligor,

unless the agreement provides otherwise.

(3) If any person refuses to comply with an order entered under this section the court may make any just order as to the refusal, but may not find a person in contempt for failure to submit to a mental or physical examination.

Section 29. A new section of KRS Chapter 304 is created to read as follows:

(1) Upon request of a basic or added reparation claimant or reparation obligor, information relevant to a claim for basic or added reparation benefits shall be disclosed as follows:

(a) An employer shall furnish a statement of the work record and earnings of an employee upon whose injury the claim is based. The statement shall cover the period specified by the claimant or reparation obligor making the request and may include a reasonable period before, and the entire period after, the injury.

(b) The claimant shall deliver to the reparation obligor a copy of every written report, previously or thereafter made, relevant to the claim, and available to him, concerning any medical treatment or examination of a person upon whose injury the claim is based and the names and addresses of physicians and medical care facilities rendering diagnoses or treatment in regard to the injury or to a relevant past injury, and the claimant shall authorize the reparation obligor to inspect and copy relevant records of physicians and of hospitals, clinics, and other medical facilities.

(c) A physician or hospital, clinic, or other medical facility furnishing examinations, services, or accommodations to an injured person in connection with a condition alleged to be connected with an injury upon which a claim is based, upon authorization of the claimant, shall furnish a written report of the history, condition, diagnoses, medical tests, treatment, and dates and cost of treatment of the injured person, and permit inspection and copying of all records and reports as to the history, condition, treatment, and dates and cost of treatment.

(2) Any person other than the claimant providing information under this section may charge the person requesting the information for the reasonable cost of providing it.

(3) In case of dispute as to the right of a claimant or reparation obligor to discover information required to be disclosed, the claimant or reparation obligor may petition the circuit court in the county in which the claimant resides for an order for discovery including the right to take written or oral depositions. Upon notice to all persons having an interest, the order may be made for good cause shown. It shall specify the time, place, manner, conditions, and scope of the discovery. To protect against annoyance, embarrassment, or oppression, the court may enter an order refusing discovery or specifying conditions of discovery and directing payment of costs and expenses of the proceeding, including reasonable attorney's fees.

Section 30. A new section of KRS Chapter 304 is created to read as follows:

(1) There is created a non-profit unincorporated legal entity to be known as the Kentucky Insurance Arbitration Association to provide a mechanism for the reimbursement, among reparation obligors of losses paid as basic or added reparation benefits, based on the law of torts without regard to subsections (1), (2) and (3) of Section 6 of this act.

(2) All basic reparation obligors shall be and remain members of the Association as a condition of their authority to transact business in this Commonwealth.

(3) The Association shall perform its functions under a plan of operation established and approved under subsection (5) and shall exercise its powers through a board of directors established under subsection (4) hereof.

(4) The board of directors of the Association shall consist of not less than three nor more than five persons serving terms as established in the plan of operation. They shall be selected by member insurers subject to the approval of the commissioner. If no members have been selected and approved prior to July 1, 1974, the commissioner shall appoint the initial members of the board. In approving selections to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented:

(a) Each member of the board shall designate two qualified experienced claimsmen from his company, either of whom upon approval by the commissioner, may serve as his alternate for the purpose of claims arbitration.

(5) The Association shall submit to the commissioner a plan of operation and any amendments thereto necessary, or suitable to assure the fair, reasonable and equitable administration of the Association. The plan shall become effective upon approval in writing by the commissioner:

(a) All reparation obligors shall comply with the provisions of the plan of operation;

(b) The plan of operation shall:

(i) Establish procedures whereby all the powers and duties of the Association will be performed;

(ii) Establish minimum requirements for the initial submission of a case for reimbursement or arbitration;

(iii) Establish minimum requirements beneath which reimbursements shall not be made in order that there be fair allocation of significant losses. The elimination of unnecessary costs in the reimbursement mechanism shall be provided for by the elimination of fault determination in the great majority of losses;

(iv) The mechanism shall encourage voluntary reimbursement procedures between reparation obligors so that resort to arbitration shall be as infrequent as possible;

(v) Fair allocation of loss between commercial and non-commercial motor vehicles may require different minimum requirements than when the loss is between two or more non-commercial vehicles;

(vi) Establish regular places and times for meetings;

(vii) Establish procedures for records to be maintained on all cases presented for arbitration and dispositions thereof;

(viii) Establish procedures for compensation to reparation obligors for travel related expense and the fair value of the time devoted by their employees as a director or alternate in performance of duties for the Association;

(ix) Establish procedures for adequately and equitably financing the cost of the Association among members; and

(x) Contain additional provisions necessary or proper for execution of the powers and duties of the Association.

(6) The Association shall be subject to examination and regulation by the commissioner:

(a) The board of directors shall submit to the commissioner, not later than March 30 of each year, a report on its activities for the preceeding calendar year;

(b) The board of directors shall promptly notify the commissioner whenever it appears that any member insurer has failed or refused to comply with an arbitration decision or has shown a protracted tendency to decline a significant number of meritorious claims presented to it prior to initiation of arbitration proceedings.

(7) The Association shall be exempt from payment of all fees, license and taxes levied by this Commonwealth or any of its subdivisions except taxes on real or personal property.

(8) There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the Association or its agents or employees, the board of directors, or the commissioner or his representative for any action taken by them in the performance of their powers and duties under this section.

Section 31. A new section of KRS Chapter 304 is created to read as follows:

The commissioner of insurance may adopt rules to provide effective administration of this act which are consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected.

Section 32. A new section of KRS Chapter 304 is created to read as follows:

The Bureau of Vehicle Regulation may adopt rules to implement and provide effective administration of the provisions on evidence of security and termination of security.

Section 33. A new section of KRS Chapter 304 is created to read as follows:

(1) If the department of transportation determines that a person has violated the provisions of Section 11 of this act requiring that he provide security covering the vehicle, it shall revoke the license or permit of such person for a period of not more than six months; or if the person is a resident without a license or permit to operate a motor vehicle in this Commonwealth, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to the review as hereinafter provided.

(2) Upon revoking the license, permit to drive, or non-resident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, the commissioner of the department of transportation shall immediately notify the person in writing by mailing the notice to the person by certified or registered mail to the last known residence address of the person, or, if the address is unknown, to the last known business address of the person. Within ten days after receiving the notice, the person may request a hearing before the commissioner. Request for a hearing does not suspend the order of revocation. The hearing shall be scheduled as early as practical within not to exceed twenty days after receipt of such request at a time and place designated by the commissioner. The notice of hearing shall be served in the same manner as the notice of revocation or denial of a license. For the purpose of the hearing, the commissioner may appoint an examiner who shall have to preside at the hearing. Upon the hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issue of whether the person registered or knowingly operated or used upon the public streets, roads and highways of this Commonwealth any motor vehicle which was not then an insured vehicle as required in Section 11 of this act. All testimony at the hearing shall be recorded. The commissioner's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The commissioner within ten days after completion of the hearing shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. The commissioner shall immediately notify the person of his ruling in writing by certified or registered mail.

(3) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license, permit to drive, or nonresident operating privilege has been revoked, or to

whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed, or in Franklin Circuit Court to review the final order of revocation or denial by the commissioner within twenty days after the final order has been issued. The appeal does not suspend the order of revocation or denial unless a stay thereof is allowed by the court pending a final judgment of the court finding against the person appealing. The period of revocation or denial is determined by taking into account the period of time during which the revocation or denial was effective before the stay was granted. The department of transportation shall file with its answer a copy of the commissioner's ruling and a transcript of evidence. The court's review is limited to whether the commissioner's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals does not suspend the order of revocation or denial unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation or denial is determined by taking into account the period of time during which the revocation or denial was effective before the stay was granted.

(4) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this Commonwealth has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

(5) A license which shall have been revoked shall be surrendered to and retained by the department. At the end of the period of revocation, the license may be returned to the licensee.

(6) Any person who fails to surrender a license which has been revoked in accordance with the provisions of this section shall be fined not less than \$2 nor more than \$500 or imprisoned for not more than six months, or both.

Section 34. A new section of KRS Chapter 304 is created to read as follows:

Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays.

Section 35. A new section of KRS Chapter 304 is created to read as follows:

(1) The rates for bodily injury and property damage liability in the amounts specified in Section 11 of this act combined with the rates for uninsured motorists coverage in equal amounts and for basic reparation benefits coverage shall be reduced by each insurer by not less than fifteen per cent (15%) as of the effective date of this act from the rates in effect for each such insurer immediately prior to such date for bodily injury and property damage liability in the amounts specified in Section 11 of this act combined with the rates for uninsured motorists coverage and the rates charged for \$1,000. per person medical expense coverage. Such reduced rates shall remain in effect for at least one year. There shall be no exception to the requirements of this section unless the commissioner shall find that the use of such reduced rates required as to any insurer will result in rates which are inadequate under Chapter 304 of the Kentucky Revised Statutes.

(2) The provisions of subsection (1) shall not apply to any policy covering a motor vehicle for which a person who would otherwise be a basic reparation insured has rejected the limitations upon his tort rights and liabilities in accordance with the provisions of Section 6 (4).

(3) Such rates shall remain in effect for at least one year.

Section 36. A new section of KRS Chapter 304 is created to read as follows:

(1) Except as provided in subsection (2), if any provisions of this act or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

(2) If the exemption from liability to pay damages in Section 6 is held to be unconstitutional or invalid as respects substantial numbers of persons or circumstances, it shall be conclusively presumed that the legislature would not have enacted the remainder of the act without such exemption and the entire act shall be held invalid; provided, however, any or all of the exceptions to the liability exemption are severable and the invalidity of any or all of the exemptions shall not impair the validity of the remainder of the act.

Section 37. KRS 187.330, 187.340, 187.350, 187.360, 187.370, 187.380, and 187.390 are repealed.

Section 38. This act shall become effective on March 15, 1975.

The Committee Substitute to **HB 314** is as follows:

HB 314, AN ACT relating to establishment of a system of insurance and compensation irrespective of fault for victims of motor vehicle accidents, setting forth the basis for recovery and the elements thereof, and establishing an assigned claims plan to protect injured victims against uninsured losses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 304 is created to read as follows:

The declaration of legislative policy of this act is as follows:

The toll of about 20,000,000 motor vehicle accidents nationally and comparable experience in Kentucky upon the interests of victims, the public, policy-holders and others require that improvements in the reparations provided for herein be adopted to effect the following purposes:

- (1) To require owners, registrants and operators of motor vehicles in the Commonwealth to procure insurance covering basic reparation benefits and legal liability arising out of ownership, operation or use of such motor vehicles;
- (2) To provide prompt payment to victims of motor vehicle accidents without regard to whose negligence caused the accident in order to eliminate the inequities which fault-determination has created;
- (3) To encourage prompt medical treatment and rehabilitation of the motor vehicle accident victim by providing for prompt payment of needed medical care and rehabilitation;
- (4) To permit more liberal wage loss and medical benefits by allowing claims for intangible loss only when their determination is reasonable and appropriate;
- (5) To reduce the need to resort to bargaining and litigation through a system which can pay victims of motor vehicle accidents without the delay, expense, aggravation, inconvenience, inequities and uncertainties of the liability system;
- (6) To help guarantee the continued availability of motor vehicle insurance at reasonable prices by a more efficient, economical and equitable system of motor vehicle accident reparations;
- (7) To create an insurance system which can more adequately be regulated; and
- (8) To correct the inadequacies of the present reparation system, recognizing that it was devised and our present Constitution adopted prior to the development of the internal combustion motor vehicle.

Section 2. A new section of KRS Chapter 304 is created to read as follows:

As used in this act:

- (1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.
- (2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this act. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one person as the result of one accident shall be \$10,000, regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one or more of the elements defined as "loss."
- (3) "Basic reparation insured" means:
 - (a) A person identified by name as an insured in a contract of basic reparation insurance complying with this act; and
 - (b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this act: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.
- (4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.
- (5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.
 - (a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of \$1,000 per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical

expense shall include all healing arts professions licensed by the Commonwealth of Kentucky.

(b) "Work loss" means loss of income from work the injured person would have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him or by income he would have earned in available appropriate substitute work he was capable of performing but unreasonably failed to undertake.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means:

(a) A vehicle of a kind required to be registered under KRS Chapter 186.

(8) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(9) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(10) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(11) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(12) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this act.

(13) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(14) A "User" means a person who is a basic reparation insured or would be a basic reparation insured if such person had not rejected the limitations upon his tort rights as provided in Section 6 (4).

(15) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(16) "Security" means any continuing undertaking complying with this act, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this act.

Section 3. A new section of KRS Chapter 304 is created to read as follows:

(1) If the accident causing injury occurs in this Commonwealth every person suffering loss from injury arising out of maintenance or use of a motor vehicle has a right to basic reparation benefits, unless he has rejected the limitation upon his tort rights as provided in Section 6 (4).

(2) If the accident causing injury occurs outside this Commonwealth but within the United States, its territories and possessions, or Canada, the following persons and their survivors suffering loss from injury arising out of maintenance or use of a motor vehicle have a right to basic reparation benefits:

(a) Basic reparation insureds; and

(b) The driver and other occupants of a secured vehicle who have not rejected the limitation upon their tort rights, other than (i) a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership, or (ii) a vehicle owned by an obligated government other than this Commonwealth, its political subdivisions, municipal corporations, or public agencies.

Section 4. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic reparation benefits shall be paid without regard to fault.

(2) Basic reparation obligors and the assigned claims plan shall pay basic reparation benefits, under the terms and conditions stated in this act, for loss from injury arising out of maintenance or use of a motor vehicle. This obligation exists without regard to immunity from liability or suit which might otherwise be applicable.

Section 5. A new section of KRS Chapter 304 is created to read as follows:

(1) The basic reparation insurance applicable to bodily injury to which this act applies is the security covering the vehicle occupied by the injured person at the time of the accident or, if the injured person is a pedestrian, the security covering the vehicle which struck such pedestrian. If the reparation obligor providing such insurance fails to make payment for loss within thirty days after receipt of reasonable proof of the fact and the amount of loss sustained, the injured person shall be entitled to payment under any contract of basic reparation insurance under which he is a basic reparation insured and the insurer making such payments shall be entitled to full reimbursement from the reparation obligor providing the security covering the vehicle. A pedestrian, as used herein, means any person who is not an operator or user of a motor vehicle at the time his injury occurs.

(2) If there is no security covering the vehicle, any contract of basic reparation insurance under which the injured person is a basic reparation insured shall apply.

(3) No person shall recover basic reparation benefits from more than one reparation obligor as a result of the same accident, except as provided in Section 14 (4), nor in excess of \$10,000 as the result of the same accident.

Section 6. A new section of KRS Chapter 304 is created to read as follows:

(1) Any person who registers, operates, maintains or uses a motor vehicle on the public roadways of this Commonwealth shall, as a condition of such registration, operation, maintenance or use of such motor vehicle and use of the public roadways, be deemed to have accepted the provisions of this act, and in particular those provisions which are contained in this section.

(2) Tort liability, except as provided in subsection (7) of this Section, with respect to accidents occurring in this Commonwealth and arising from the ownership, operation, maintenance, or use of a motor vehicle is abolished except as to:

(a) Liability of the owner of a motor vehicle involved in an accident if security covering the vehicle was not provided at the time of the accident;

(b) Liability of a person in the business of manufacturing, repairing, servicing, or otherwise maintaining motor vehicles arising from a defect in a motor vehicle caused or not corrected by an act or omission in the manufacturing, repairing, servicing, or otherwise maintaining of a vehicle in the course of his business;

(c) Liability of a person for intentionally caused injury to a person;

(d) Liability of a person for damage to property;

(e) Damages for any work loss, replacement services loss, survivor's economic loss, and survivor's replacement services loss, not recoverable as basic reparation benefits by reason of the monetary limitations contained in this act;

(f) Damages for noneconomic detriment if the accident causes death, significant permanent injury, serious permanent disfigurement, or more than three months of complete inability of the injured person to work in an occupation, or if the injured person incurs medical expenses having a reasonable value in excess of \$1,250. "Complete inability of an injured person to work in an occupation" means inability to perform, on even a part-time basis, even some of the duties required by his occupation or, if unemployed at the time of injury, by any occupation for which the injured person was qualified. "Reasonable value" means the average cost of specific types of services included under medical expenses, as defined in this act, in the Commonwealth of Kentucky as determined from statistical data compiled by the commissioner of insurance and published not less than once each year; and

(g) Injury to a person who is not an owner, operator, maintainer or user of a motor vehicle within subsection (1) of this section. However, any person who presents a claim for and receives payments from any basic reparation obligor shall be deemed to have elected to limit his tort rights as provided for all other persons by this section.

(h) In any action for damages resulting from tort liability under this section, the court shall appropriately instruct the jury to first find, as a prerequisite to any award, that as a direct and proximate result of the negligence of the defendant, plaintiff has sustained damages in an amount or of a character so as to meet one or more of the requirements of subsections (a) through (g) of this subsection.

(3) For purposes of this section and the provisions on reparation obligor's rights of reimbursement, subrogation, and indemnity, a person does not intentionally cause harm merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

(4) Any person may refuse to consent to the limitations of his tort rights and liabilities as contained in this section. Such rejection must be in writing in a form to be prescribed by the department of transportation and must have been executed and filed with the department at a time prior to any motor vehicle accident for which such rejection is to apply. Rejection by a person who is under legal disability shall be made on behalf of such person by his legal guardian or his natural parent. The failure of such guardian or a natural parent of a person under legal disability to file a rejection, within six months from the date that this act would otherwise become applicable to such person, shall be deemed to be an affirmative acceptance of all provisions of this

act.

(5) Any rejection must be filed with the department of transportation and shall be for a period of five years from the date of its execution unless revoked in writing. A copy of such rejection or revocation must be filed with each insurance company providing an automobile policy under which the individual is a named insured as defined in the policy.

(6) Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his right to reject the limitations of his tort rights and liabilities under this act.

(7) Any rejection shall result in the full retention by the individual of his tort rights and his tort liabilities. Any person injured by a motor vehicle operator who has such rejection on file may claim his full damages, including nonpecuniary damages, or, if such injured person has not rejected his own tort limitations, he may also claim basic reparation benefits from the appropriate security on the vehicle as established under Section 5. If such provider of security is other than the one providing security for the operator who has rejected the limitations, such provider shall be subrogated to the rights of the injured person to the extent of reparation benefits paid against the owner and operator of the vehicle.

(8) No person who has rejected the tort limitations under this section, except as provided in subsection (9) of this section or subsection (5) of Section 14, may collect basic reparation benefits.

(9) Any owner or operator of a motorcycle, as defined in Kentucky Revised Statutes, may file a rejection as described in subsections (4) and (5), which will apply solely to the ownership and operation of a motorcycle but will not apply to injury resulting from the ownership, operation or use of any other type of motor vehicle.

Section 7. A new section of KRS Chapter 304 is created to read as follows:

(1) "Secured person" means the owner, operator or occupant of a secured motor vehicle, and any other person or organization legally responsible for the acts or omissions of such owner, operator or occupant.

(2) A reparation obligor which has paid or may become obligated to pay basic reparation benefits shall be subrogated to the extent of its obligations to all of the rights of the person suffering the injury against any person or organization other than a secured person.

(3) A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection. The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to Section 30, sixty days after said claim has been presented to the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association as provided in Section 30.

(4) A release by the injured party does not release the rights of the reparation obligor under this section.

Section 8. A new section of KRS Chapter 304 is created to read as follows:

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies shall continuously provide, pursuant to subsection (4), security for the payment of basic reparation benefits in accordance with this act for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this act for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner of a motor vehicle registered in this Commonwealth or operated in this Commonwealth by him or with his permission, shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this act and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this act.

(7) Self-insurance, subject to approval of the commissioner of insurance, is effected by filing with the commissioner in satisfactory form:

(a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this act;

(b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this act; and

(c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this act, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this act.

(8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this act; and

(9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

Section 9. A new section of KRS Chapter 304 is created to read as follows:

An owner of a motor vehicle registered in this Commonwealth who ceases to maintain security as required by the provisions on security may not operate or permit operation of the vehicle in this Commonwealth until security has again been provided as required by this act. All other owners shall provide such security while operating a motor vehicle in this Commonwealth.

Section 10. A new section of KRS Chapter 304 is created to read as follows:

(1) An insurance contract which purports to provide coverage for basic reparation benefits or is sold with representation that it provides security covering a motor vehicle has the legal effect of including all coverages required by this act.

(2) An insurer authorized to transact or transacting business in this Commonwealth shall file with the commissioner of insurance as a condition of its continued transaction of business within this Commonwealth a form approved by the commissioner of insurance declaring that in any contract of liability insurance for injury, wherever issued, covering the ownership, maintenance or use of a motor vehicle while the vehicle is in this Commonwealth shall be deemed to provide the basic reparation benefits coverage and minimum security for tort liabilities required by this act, except a contract which provides coverage only for liability in excess of required minimum tort liability coverage. Any non-admitted insurer may file such form.

Section 11. A new section of KRS Chapter 304 is created to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Liability coverage of not less than \$10,000 for all damages arising out of bodily injury sustained by any one person as a result of any one accident, and not less than \$20,000 for all damages arising out of bodily injury sustained as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) Liability coverage of not less than \$5,000 for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; and

(c) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada.

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this act, it must be subject to conditions consistent with the system of required liability insurance established by this act.

Section 12. A new section of KRS Chapter 304 is created to read as follows:

(1) All benefits or advantages a person receives or is entitled to receive because of the injury from social security and workmen's compensation are subtracted in calculating net loss.

(2) If a benefit or advantage received to compensate for loss of income because of injury, whether from basic reparation benefits or from any source of benefits or advantages subtracted under subsection (1), is not taxable income, the income tax saving that is attributable to his loss of income because of injury is subtracted in calculating net loss. Subtraction may not exceed fifteen per cent (15%) of the loss of income and shall be in a lesser amount if the claimant furnishes to the insurer reasonable proof of a lower value of the income tax advantage.

Section 13. A new section of KRS Chapter 304 is created to read as follows:

Basic reparation benefits payable for work loss, survivor's economic loss, replacement services loss, and survivor's replacement services loss arising from injury to one person and attributable to the calendar week during which the accident causing injury occurs and to each calendar week thereafter may not exceed \$200, prorated for any lesser period. If the injured person's earnings or work are seasonal or irregular, the weekly limit shall be equitably adjusted or apportioned on an annual basis.

Section 14. A new section of KRS Chapter 304 is created to read as follows:

(1) On and after the effective date of this act, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to

provide added reparation benefits for economic loss in units of \$10,000 per person subject to the lesser of:

- (a) \$40,000 in added reparation benefits, or
- (b) The limit of security provided for liability to any one person in excess of the requirements of subsection (1)(a) of Section 11.

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under added reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation obligor shall be subrogated, subject to Sections 7 and 30, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under Section 6 of this act from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of added reparation benefits paid to or in behalf of such injured person or persons.

(4) Basic reparation insurers shall make available upon request deductibles in the amounts of \$250, \$500, and \$1,000 from all basic reparation benefits otherwise payable, except that if two or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

(5) Reparation obligors shall make available upon request to those persons who have rejected their tort limitations, in accordance with Section 6 (4), basic reparation benefits coverage and added reparation benefits.

Section 15. A new section of KRS Chapter 304 is created to read as follows:

Terms and conditions of contracts and certificates or other evidence of insurance coverage sold or issued in this Commonwealth providing motor vehicle tort liability, basic reparation, and added reparation insurance coverages, and of forms used by insurers offering these coverages, are subject to approval and regulation by the commissioner of insurance. The commissioner shall approve only terms and conditions consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected.

Section 16. A new section of KRS Chapter 304 is created to read as follows:

(1) A person entitled to basic reparation benefits because of injury covered by this act may obtain them through the assigned claims plan established pursuant to the provisions relating thereto and in accordance with the provisions on time for presenting claims under the assigned claims plan if:

(a) Basic reparation insurance is not applicable to the injury for a reason other than those specified in the provisions on converted vehicles and intentional injuries;

(b) Basic reparation insurance applicable to the injury cannot be identified;

(c) Basic reparation insurance applicable to the injury is inadequate to provide the contracted for benefits because of financial inability of a reparation obligor to fulfill its obligations; or

(d) A claim for basic reparation benefits is rejected by a reparation obligor for a reason other than that the person is not entitled under this act to the basic reparation benefits claimed.

(2) If a claim qualifies for assignment under paragraphs (c) or (d) of subsection (1), the assigned claims bureau or any reparation obligor to whom the claim is assigned is subrogated to all rights of the claimant against any reparation obligor, its successor in interest or substitute, legally obligated to provide basic reparation benefits to the claimant, for basic reparation benefits provided by the assignee.

(3) Except in case of a claim assigned under subsection (1)(d), if a person receives basic reparation benefits through the assigned claims plan, all benefits or advantages he receives or is entitled to receive as a result of the injury, other than by way of succession at death, death benefits from life insurance, or in discharge of familial obligations of support, are subtracted in calculating net loss.

(4) A person who sustains injury while occupying a motor vehicle owned by such person and with respect to which security is required by the provisions on security and who fails to have such security in effect at the time of an accident in this Commonwealth causing such injury, shall not obtain through the assigned claims plan basic reparation benefits, including benefits otherwise due him as a survivor, unless such person's failure to have such security in effect at the time of such accident was solely occasioned by the failure of the reparation obligor of such person to provide the basic reparation benefits required by this act.

Section 17. A new section of KRS Chapter 304 is created to read as follows:

(1) Reparation obligors providing basic reparation insurance in this Commonwealth may organize and maintain, subject to approval and regulation by the commissioner of insurance, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable

basis consistent with this act. If they do not organize and continuously maintain an assigned claims bureau and an assigned claims plan in a manner considered by the commissioner of insurance to be consistent with this act, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each reparation obligor providing basic reparation insurance in this Commonwealth shall participate in the assigned claims bureau and the assigned claims plan. Costs incurred shall be allocated fairly and equitably among the reparation obligors.

(2) The assigned claims bureau shall promptly assign each claim and notify the claimant of the identity and address of the assignee of the claim. Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic reparation insurance complying with this act applicable to the injury or, in case of financial inability of a reparation obligor to perform its obligations, as if the assignee had written the applicable basic reparation insurance, undertaken the self-insurance, or lawfully obligated itself to pay reparation benefits.

Section 18. A new section of KRS Chapter 304 is created to read as follows:

(1) Except as provided in subsection (2), a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within the time that would have been allowed for commencing an action for those benefits if there had been identifiable coverage in effect and applicable to the claim.

(2) If timely action for basic reparation benefits is commenced against a reparation obligor who is unable to fulfill his obligations because of financial inability, a person authorized to obtain basic reparation benefits through the assigned claims plan shall notify the bureau of his claim within six months after discovery of the financial inability.

Section 19. A new section of KRS Chapter 304 is created to read as follows:

A person who converts a motor vehicle is disqualified from basic or added reparation benefits, including benefits otherwise due him as a survivor, from any source other than an insurance contract under which the converter is a basic or added reparation insured, for injuries arising from maintenance or use of the converted vehicle. If the converter dies from the injuries, his survivors are not entitled to basic or added reparation benefits from any source other than an insurance contract under which the converter is a basic reparation insured. For the purpose of this section, a person is not a converter if he uses the motor vehicle in the good faith belief that he is legally entitled to do so.

Section 20. A new section of KRS Chapter 304 is created to read as follows:

A person intentionally causing or attempting to cause injury to himself or another person is disqualified from basic or added reparation benefits for injury arising from his acts, including benefits otherwise due him as a survivor. If a person dies as a result of intentionally causing or attempting to cause injury to himself, his survivors are not entitled to basic or added reparation benefits for loss arising from his death. A person intentionally causes or attempts to cause injury if he acts or fails to act for the purpose of causing injury or with knowledge that injury is substantially certain to follow. A person does not intentionally cause or attempt to cause injury merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another person.

Section 21. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen days after the period of accumulation. If reasonable proof is supplied as to only part of a claim, and the part totals \$100 or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant.

(2) Overdue payments bear interest at the rate of twelve per cent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen per cent (18%) per annum.

(3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.

(4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured

under this subsection against any basic or added reparation benefits otherwise due.

(5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

Section 22. A new section of KRS Chapter 304 is created to read as follows:

(1) If overdue benefits are recovered in an action against the reparation obligor or paid by the reparation obligor after receipt of notice of the attorney's representation, a reasonable attorney's fee for advising and representing a claimant on a claim or in an action for basic or added reparation benefits may be awarded by the court if the denial or delay was without reasonable foundation. No part of the fee for representing the claimant in connection with these benefits is a charge against benefits otherwise due the claimant.

(2) In any action brought against the insured by the reparation obligor, the court may award the insured's attorney a reasonable attorney's fee for defending the action.

Section 23. A new section of KRS Chapter 304 is created to read as follows:

A reparation obligor may be allowed a reasonable attorney's fee for defending a claim for benefits that is fraudulent or so excessive as to have no reasonable foundation. The fee may be treated as an offset to benefits due or which thereafter accrue. The reparation obligor may recover from the claimant any part of the fee not offset or otherwise paid.

Section 24. A new section of KRS Chapter 304 is created to read as follows:

(1) If no basic or added reparation benefits have been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two (2) years after the injured person suffers the loss and either knows, or in the exercise of reasonable diligence should know, that the loss was caused by the accident, or not later than four years after the accident, whichever is earlier. If basic or added reparation benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two years after the last payment of benefits.

(2) If no basic or added reparation benefits have been paid to the decedent or his survivors, an action for survivor's benefits may be commenced not later than one year after the death or four years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two years after the last payment of benefits. If basic or added reparation benefits have been paid for loss suffered by an injured person before his death resulting from the injury, an action for survivor's benefits may be commenced not later than one year after the death or four years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic reparation benefits is commenced against a reparation obligor and benefits are denied because of a determination that the reparation obligor's coverage is not applicable to the claimant under the provisions on priority of applicability of basic reparation security, an action against the applicable reparation obligor or the assigned claims bureau may be commenced not later than sixty days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as subsections (1), (2), or (3) prescribe a longer period, an action by a claimant on an assigned claim which has been timely presented may be commenced not later than sixty days after the claimant received written notice of rejection of the claim by the reparation obligor to which it was assigned.

(5) If a person entitled to basic or added reparation benefits is under legal disability when the right to bring an action for the benefits first accrues, the period of his disability is a part of the time limited for commencement of the action.

Section 25. A new section of KRS Chapter 304 is created to read as follows:

An assignment of or agreement to assign any right to benefits under this act for loss accruing in the future is unenforceable except as to benefits for:

(a) Work loss to secure payment of alimony, maintenance, or child support; or

(b) Medical expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

Section 26. A new section of KRS Chapter 304 is created to read as follows:

Except as otherwise provided in this act, basic reparation benefits shall be paid without deduction or set-off.

Section 27. A new section of KRS Chapter 304 is created to read as follows:

(1) Basic or added reparation benefits for medical expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon a claim of a creditor who has provided products, services, or accommodations.

(2) Basic reparation benefits other than those for medical expense are exempt from garnishment, attachment, execution, and any other process or claim to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from process or claims.

Section 28. A new section of KRS Chapter 304 is created to read as follows:

(1) If the mental or physical condition of a person is material to a claim for past or future basic or added reparation benefits, the reparation obligor may petition the circuit court for an order directing the person to submit to a mental or physical examination by a physician. Upon notice to the person to be examined and all persons having an interest, the court may make the order for good cause shown. The order shall specify the time, place, manner, conditions, scope of the examination, and the physician by whom it is to be made.

(2) If requested by the person examined, the reparation obligor causing a mental or physical examination to be made shall deliver to the person examined a copy of a detailed written report of the examining physician setting out his findings including results of all tests made, diagnoses, and conclusions, and reports of earlier examinations of the same condition. By requesting and obtaining a report of the examination ordered or by taking the deposition of the physician, the person examined waives any privilege he may have, in relation to the claim for basic or added reparation benefits, regarding the testimony of every other person who has examined or may thereafter examine him respecting the same condition. This subsection does not preclude discovery of a report of an examining physician, taking a deposition of the physician, or other discovery procedures in accordance with any rule of court or other provision of law. This subsection applies to examinations made by agreement of the person examined and the reparation obligor, unless the agreement provides otherwise.

(3) If any person refuses to comply with an order entered under this section the court may make any just order as to the refusal, but may not find a person in contempt for failure to submit to a mental or physical examination.

Section 29. A new section of KRS Chapter 304 is created to read as follows:

(1) Upon request of a basic or added reparation claimant or reparation obligor, information relevant to a claim for basic or added reparation benefits shall be disclosed as follows:

(a) An employer shall furnish a statement of the work record and earnings of an employee upon whose injury the claim is based. The statement shall cover the period specified by the claimant or reparation obligor making the request and may include a reasonable period before, and the entire period after, the injury.

(b) The claimant shall deliver to the reparation obligor a copy of every written report, previously or thereafter made, relevant to the claim, and available to him, concerning any medical treatment or examination of a person upon whose injury the claim is based and the names and addresses of physicians and medical care facilities rendering diagnoses or treatment in regard to the injury or to a relevant past injury, and the claimant shall authorize the reparation obligor to inspect and copy relevant records of physicians and of hospitals, clinics, and other medical facilities.

(c) A physician or hospital, clinic, or other medical facility furnishing examinations, services, or accommodations to an injured person in connection with a condition alleged to be connected with an injury upon which a claim is based, upon authorization of the claimant, shall furnish a written report of the history, condition, diagnoses, medical tests, treatment, and dates and cost of treatment of the injured person, and permit inspection and copying of all records and reports as to the history, condition, treatment, and dates and cost of treatment.

(2) Any person other than the claimant providing information under this section may charge the person requesting the information for the reasonable cost of providing it.

(3) In case of dispute as to the right of a claimant or reparation obligor to discover information required to be disclosed, the claimant or reparation obligor may petition the circuit court in the county in which the claimant resides for an order for discovery including the right to take written or oral depositions. Upon notice to all persons having an interest, the order may be made for good cause shown. It shall specify the time, place, manner, conditions, and scope of the discovery. To protect against annoyance, embarrassment, or oppression, the court may enter an order refusing discovery or specifying conditions of discovery and directing payment of costs and expenses of the proceeding, including reasonable attorney's fees.

Section 30. A new section of KRS Chapter 304 is created to read as follows:

(1) There is created a non-profit unincorporated legal entity to be known as the Kentucky Insurance Arbitration Association to provide a mechanism for the reimbursement, among reparation obligors of losses paid as basic or added reparation benefits, based solely on the law of torts without regard to subsections (1), (2) and (3) of Section 6 of this act.

(2) All basic reparation obligors shall be and remain members of the Association as a condition of their authority to transact business in this Commonwealth.

(3) The Association shall perform its functions under a plan of operation established and approved under subsection (5) and shall exercise its powers through a board of directors established under subsection (4) hereof.

(4) The board of directors of the Association shall consist of not less than three nor more than five persons serving terms as established in the plan of operation. They shall be selected by member obligors subject to the approval of the commissioner. If no members have been selected and approved prior to July 1, 1974, the commissioner shall appoint the initial members of the board. In approving selections to the board, the commissioner shall consider, among other things, whether all member obligors are fairly represented:

(a) Each member of the board shall designate two qualified experienced claimsmen from his company, either of whom upon approval by the commissioner, may serve as his alternate for the purpose of claims arbitration.

(5) The Association shall submit to the commissioner a plan of operation and any amendments thereto necessary, or suitable to assure the fair, reasonable and equitable administration of the Association. The plan shall become effective upon approval in writing by the commissioner:

(a) All reparation obligors shall comply with the provisions of the plan of operation;

(b) The plan of operation shall:

(i) Establish procedures whereby all the powers and duties of the Association will be performed;

(ii) Establish minimum requirements for the initial submission of a case for reimbursement or arbitration;

(iii) Establish minimum requirements beneath which reimbursements shall not be made in order that there be fair allocation of significant losses and the elimination of unnecessary costs in the reimbursement mechanism;

(iv) Encourage voluntary reimbursement procedures between reparation obligors so that resort to arbitration shall be as infrequent as possible;

(v) Recognize that fair allocation of loss between commercial and non-commercial motor vehicles may require different minimum requirements than when the loss is between two or more non-commercial vehicles;

(vi) Establish regular places and times for meetings;

(vii) Establish procedures for records to be maintained on all cases presented for arbitration and dispositions thereof;

(viii) Establish procedures for compensation to reparation obligors for travel related expense and the fair value of the time devoted by their employees as a director or alternate in performance of duties for the Association;

(ix) Establish procedures for adequately and equitably financing the cost of the Association among members; and

(x) Contain additional provisions necessary or proper for execution of the powers and duties of the Association.

(6) The Association shall be subject to examination and regulation by the commissioner:

(a) The board of directors shall submit to the commissioner, not later than March 30 of each year, a report on its activities for the preceding calendar year;

(b) The board of directors shall promptly notify the commissioner whenever it appears that any member insurer has failed or refused to comply with an arbitration decision or has shown a protracted tendency to decline a significant number of meritorious claims presented to it prior to initiation of arbitration proceedings.

(7) The Association shall be exempt from payment of all fees, license and taxes levied by this Commonwealth or any of its subdivisions except taxes on real or personal property.

(8) There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the Association or its agents or employees, the board of directors, or the commissioner or his representative for any action taken by them in the performance of their powers and duties under this section.

Section 31. A new section of KRS Chapter 304 is created to read as follows:

The commissioner of insurance may adopt rules to provide effective administration of this act which are consistent with the purposes of this act and fair and equitable to all persons whose interests may be affected.

Section 32. A new section of KRS Chapter 304 is created to read as follows:

The department of transportation may adopt rules to implement and provide effective administration of the provisions on evidence of security and termination of security.

Section 33. A new section of KRS Chapter 304 is created to read as follows:

(1) If the department of transportation determines that a person has violated the provisions of Section 11 of this act requiring that he provide security covering the vehicle, it shall revoke the license or permit of such person for a period of not more than six months; or if the person is a resident without a license or permit to operate a motor vehicle in this Commonwealth, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to the review as hereinafter provided.

(2) Upon revoking the license, permit to drive, or non-resident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, the commissioner of the department of transportation shall immediately notify the person in writing by mailing the notice to the

person by certified or registered mail to the last known residence address of the person, or, if the address is unknown, to the last known business address of the person. Within ten days after receiving the notice, the person may request a hearing before the commissioner. Request for a hearing does not suspend the order of revocation. The hearing shall be scheduled as early as practical within not to exceed twenty days after receipt of such request at a time and place designated by the commissioner. The notice of hearing shall be served in the same manner as the notice of revocation or denial of a license. For the purpose of the hearing, the commissioner may appoint an examiner who shall have to preside at the hearing. Upon the hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issue of whether the person registered or knowingly operated or used upon the public streets, roads and highways of this Commonwealth any motor vehicle which was not then an insured vehicle as required in Section 11 of this act. All testimony at the hearing shall be recorded. The commissioner's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The commissioner within ten days after completion of the hearing shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. The commissioner shall immediately notify the person of his ruling in writing by certified or registered mail.

(3) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license, permit to drive, or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed, or in Franklin Circuit Court to review the final order of revocation or denial by the commissioner within twenty days after the final order has been issued. The appeal does not suspend the order of revocation or denial unless a stay thereof is allowed by the court pending a final judgment of the court finding against the person appealing. The period of revocation or denial is determined by taking into account the period of time during which the revocation or denial was effective before the stay was granted. The department of transportation shall file with its answer a copy of the commissioner's ruling and a transcript of evidence. The court's review is limited to whether the commissioner's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals does not suspend the order of revocation or denial unless a stay thereof is allowed by the court pending a final determination of the review. If a stay is allowed, and the final judgment of the court finds against the person appealing, the period of revocation or denial is determined by taking into account the period of time during which the revocation or denial was effective before the stay was granted.

(4) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this Commonwealth has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

(5) A license which shall have been revoked shall be surrendered to and retained by the department. At the end of the period of revocation, the license may be returned to the licensee.

(6) Any person who fails to surrender a license which has been revoked in accordance with the provisions of this section shall be fined not less than \$2 nor more than \$500 or imprisoned for not more than six months, or both.

Section 34. A new section of KRS Chapter 304 is created to read as follows:

Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays.

Section 35. A new section of KRS Chapter 304 is created to read as follows:

(1) The rates for bodily injury and property damage liability in the amounts specified in Section 11 of this act combined with the rates for uninsured motorists coverage in equal amounts and for basic reparation benefits coverage shall be reduced by each insurer by not less than fifteen per cent (15%) as of the effective date of this act from the rates in effect for each such insurer immediately prior to such date for bodily injury and property damage liability in the amounts specified in Section 11 of this act combined with the rates for uninsured motorists coverage and the rates charged for \$1,000 per person medical expense coverage. Such reduced rates shall remain in effect for at least one year. There shall be no exception to the requirements of this section unless the commissioner shall find that the use of such reduced rates required as to any insurer will result in rates which are inadequate under Chapter 304 of the Kentucky Revised Statutes.

(2) The provisions of subsection (1) shall not apply to any policy covering a motor vehicle for which a person who would otherwise be a basic reparation insured has rejected the limitations upon his tort rights and

liabilities in accordance with the provisions of Section 6 (4).

Section 36. A new section of KRS Chapter 304 is created to read as follows:

(1) Except as provided in subsection (2), if any provisions of this act or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

(2) If the exemption from liability to pay damages in Section 6 is held to be unconstitutional or invalid as respects substantial numbers of persons or circumstances, it shall be conclusively presumed that the legislature would not have enacted the remainder of the act without such exemption and the entire act shall be held invalid; provided, however, any or all of the exceptions to the liability exemption are severable and the invalidity of any or all of the exemptions shall not impair the validity of the remainder of the act.

Section 37. KRS 187.330, 187.340, 187.350, 187.360, 187.370, 187.380, and 187.390 are repealed.

Section 38. This act shall become effective on July 1, 1975.

HB 259, AN ACT relating to retail installment contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 371.260 is amended to read as follows:

(1) [Notwithstanding the provisions of any other law, a] *A retail installment contract payable in substantially equal successive monthly installments beginning one month from the date of the contract may provide for, and the seller or holder may then charge, collect and receive a time price differential in the maximum amounts set forth in sections (2), (3), and (4) of this section. No time price differential in excess of these amounts shall be charged or collected.*

(2) *On contracts for the construction or improvement of a single family residence where a first lien is taken on the property where the building affected is located or to be located, the maximum time price differential shall be the same as the maximum interest rate provided for mortgages on real estate loans for the purchase of comparable property.*

(3) *On contracts for the construction or improvement of a single family residence where a first lien is not taken on the property, the maximum time-price differential shall be equal to the maximum interest rate that savings and loan institutions are allowed to charge on property improvement loans which are not secured by a first lien.*

(4) *On other retail installment contracts, the maximum time-price differential shall be at the following rates, calculated as the annual percentage rate is calculated for the purposes of disclosure under the Federal Truth in Lending Act:*

(a) *Not exceeding 18 percent annual percentage rate on the first \$2,000 and*

(b) *Not exceeding 12 percent annual percentage rate on any amounts in excess of \$2,000.*

(5) *Any seller who collects or attempts to collect any rates in excess of those provided for in this section shall forfeit a sum equal to the greater of three times the amount of the excess time-price differential he charged or attempted to charge, or the total of the time-price differential provided for in the contract. If a seller refuses to make restitution in accordance with the provisions of this section after written notification of the purchaser's right to refund or credit, the purchaser shall be entitled to any reasonable attorney's fees incurred in enforcing his rights under this section.*

(6) [(2)] *Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may prepay in full the unpaid time balance thereof at any time before its final due date and, if he does so, shall receive a refund credit thereon for such prepayment. The amount of such refund credit shall represent at least as great a proportion of the original time price differential, after deducting therefrom a maximum of ten dollars, as (a) the sum of the monthly unpaid balances under the schedule of payments in the contract beginning as of the date after such prepayment which is the next succeeding monthly anniversary date of the due date of the first installment under the contract, or, if the prepayment is prior to the due date of the first installment under the contract, then as of the date after such prepayment which is the next succeeding monthly anniversary date of the date of the contract, bears to (b) the sum of all the monthly unpaid balances under the schedule of installment payments in the contract. Where the amount of refund credit is less than one dollar, no refund credit need be made. No time price differential in excess of these amounts shall be charged or collected.*

The Committee Amendment to **HB 259** is as follows:

Amend printed copy of **HB 259**, page 1, line 9, by deleting “, (3), and (4)” and inserting in lieu thereof “and (3)”; and on page 1, lines 12 and 13 by deleting “or improvement”; and on page 1, lines 19 and 20 by deleting “or improvement”; and on page 2, lines 6-14 by deleting same; and on line 15 by deleting “(5)” and inserting in lieu thereof “(4)” and on line 26 by deleting “(6)” and inserting in lieu thereof “(5)”.

HB 571, AN ACT relating to bail bondsmen and the taxation thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 136 is created to read as follows:

(1) Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the Department of Revenue a statement, under oath, of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars upon each one hundred dollars of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

(2) In addition to the requirements of subsection 1, a copy of the sworn statement of all amounts paid to the bail bondsman or his representatives, whether designated as premiums or otherwise, shall be filed with the Commissioner of Insurance at the same time the bail bondsman files his report of assets and liabilities as required by KRS 304.34-050 (1).

SB 75, AN ACT relating to school board membership.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.180 is amended to read as follows:

(1) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the eighth grade in the common schools as shown by the records of the school in which the eighth grade was completed or by affidavits of the teacher or teachers under whom the work was completed, or unless he has the equivalent of an eighth grade education as determined by an examination held under rules and regulations adopted by the state board of education; or

(d) Who holds or discharges the duties of any civil or political office, deputyship or agency under the city or county of his residence; or

(e) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery or any other property, materials, supplies, equipment or services for which school funds are expended; or

(f) Who has been removed from membership on a board of education for cause; or[.]

(g) Who is an officer or director of the depository bank for school board funds.

(2) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (e) of subsection (1) of this section, or becomes a candidate for nomination or election to any office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he moves his residence from the district for which he was chosen, or if he does anything that would render him ineligible for re-election, his office shall without further action be vacant.

(3) A board member shall be eligible for re-election unless he becomes disqualified.

(4) No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin, and the majority vote of the remainder of the board is required in case of appointment or employment of such person.

Section 2. The effective date of subsection (1)(g) of section one of this Act shall be July 1, 1975.

The Committee Amendment to **SB 75** is as follows:

Amend printed copy of **SB 75**, page 2, line 8, by deleting the words "an officer or" and by adding therefore "a"

page 3, line 7, by deleting "1975" and by adding therefore the following: "1974. The provisions of said subsection shall apply only to those persons elected to membership on a school board subsequent to that date, and shall not be construed as vacating the office of any person currently serving as a member of a school board."

The Committee on Business Organizations and Professions reported **HB 444** and **HB 476** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 444, AN ACT relating to the sale of malt beverages by persons under the age of twenty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 244 is created to read as follows:

Persons at least eighteen (18) years of age may stock, arrange displays, accept payment for and sack malt beverages by the package. Delivery of malt beverages away from the parking area of the licensed business premises shall not be performed by anyone under the age of twenty (20) years.

Section 2. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of a felony or of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years.

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in Section (1) of this Act.

(c) Is not a citizen of the United States or has not had an actual bona fide residence in this commonwealth for at least one (1) year next before the date of his employment, provided the above residence requirement shall not apply to persons employed by distillers, brewers, operators of dining cars or transporters engaged in interstate commerce.

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause, or has been convicted of a violation of any of the provisions of chapter 241, 243 or 244 or of any other such act or ordinance.

(2) Violation of this section shall subject both employer and employee to penalties provided in this chapter, and shall be cause for revocation of license.

HB 476, AN ACT relating to the licensing of boiler and pressure vessel erectors and boiler and pressure vessel repair contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 383 is created to read as follows:

(1) No person shall engage in the business of installing, erecting, or repairing boilers unless he shall first obtain a license from the Commissioner of Insurance or on recommendation of the Board of Boiler Rules.

(2) Each person, firm, or corporation must furnish evidence suitable to the Board of Boiler Rules that they are qualified to perform such work.

(3) Licenses shall be issued by the Commissioner of Insurance or the Chief Boiler Inspector upon recommendation of the Board of Boiler Rules and payment of a fee of fifty dollars (\$50) for each application.

(4) The licenses shall be renewed annually upon payment of a fee of thirty-five dollars (\$35).

(5) The renewal of licenses will be due on expiration of licenses, first of the following month, when licenses were issued.

(6) All individuals in the employ of a licensee shall not be required to be licensed.

(7) "Commissioner" means Commissioner of Insurance.

(8) "Board" means Board of Boiler Rules.

Section 2. A new section of KRS Chapter 383 is created to read as follows:

(1) An erector, installer or repairer's license may be suspended for incompetence or for wilful falsification of any matter or statement contained in his application. Written notice of a suspension to the licensee shall be given by the Chief Boiler Inspector within ten days of the first notification of the violation. A person whose license has been suspended may appeal to the Board as provided in KRS 236.150 and be present in person and be represented by counsel at the hearing of the appeal.

(2) If the Board has reason to believe that a licensee is no longer qualified to hold his license, the Board upon not less than ten days written notice to the licensee, shall hold a hearing at which the licensee shall have an opportunity to be heard. If as a result of the hearing the Board finds that the licensee is no longer qualified to hold his license, the Board shall recommend to the Commissioner that the license be revoked and the Commissioner shall thereupon revoke such license forthwith.

(3) Any person whose license has been suspended may apply, after ninety days (90) from the date of the suspension, for reinstatement of the license.

Section 3. A new section of KRS Chapter 383 is created to read as follows:

If a license is lost or destroyed, a new license shall, upon application and payment of a fee of five dollars (\$5) be issued in its place without submitting another application.

Section 4. A new section of KRS Chapter 383 is created to read as follows:

(1) No person shall install, erect, or repair a boiler without first securing a permit to install from the Bureau of Boiler Inspection. Permits shall be issued only to persons licensed to install, erect, or repair boilers and their connecting piping and no work shall be performed except by, or under the immediate supervision of such licensed person. The permit fees shall be set by the Board of Boiler Rules.

(2) The permit fees will include one interim inspection and one final inspection for issuance of boiler operating certificate.

(3) Special inspections and more than two inspections for each permit will be charged fees in accordance with KRS 236.130.

Section 5. A new section of KRS Chapter 383 is created to read as follows:

No person shall make repairs to boilers without first securing a permit to repair from the Bureau of Boiler Inspection unless repairs have been authorized by an authorized inspector pending issuance of the permit or unless such repairs are emergency maintenance performed by qualified persons regularly employed by firms utilizing properly qualified procedures to repair boilers. Permits shall be issued only to persons licensed to repair boilers and no work shall be performed except by or under the immediate supervision of such licensed persons. A permit fee shall be paid directly to the Bureau of Boiler Inspection and shall accompany the permit with repair application. Payment of permit to repair fees will not be required from firms utilizing properly qualified welding procedures and regularly employing qualified welders, registered with the Bureau of Boiler Inspection to weld on boilers owned and operated by such firms.

Section 6. A new section of KRS Chapter 383 is created to read as follows:

The Commissioner of Insurance, the Chief Boiler Inspector, or any deputy inspector shall have free access, during reasonable hours, to any premises in the State where a boiler is being constructed, installed or repaired for the purpose of ascertaining whether the work is being performed is in accordance with the provisions of this Act.

The Committee on Highways and Traffic Safety reported **HB 208, HB 215, HB 243, HB 401, HB 523, HB 534, HB 551 and HB 575** with the expression of opinion that the same should not pass.

The Committee on Highways and Traffic Safety reported **HB 238** with Committee Amendment attached thereto, **HB 510, HB 524, HB 593, HB 613, HCR 8, and HJR 19** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 238, AN ACT relating to motor vehicle licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.074 is amended to read as follows:

The department of revenue is hereby authorized and empowered to design, issue and regulate the use of temporary permits for use in cases where dealer's plates cannot be used. No such temporary permit shall be valid in any event for more than *thirty* [five (5)] days *and the expiration date shall be written on the permit*. A person purchasing said permit shall pay a fee of *fifty cents* [twenty-five cents (25)] per permit to the clerk for his services. The department of revenue is hereby authorized and empowered to promulgate rules and regulations for the administration of this section.

The Committee Amendment to **HB 238** is as follows:

Amend printed copy of **HB 238**, page 1, line 7, by striking out the word "*thirty*" and substituting therefor the word "*ten*"

HB 510, AN ACT relating to reservation of certain tax receipts for urban roads and streets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1973, one-eighteenth (1/18) of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside by the *Bureau* [Department] of Highways for the construction, reconstruction and maintenance of urban roads and streets [which provide necessary connecting links for state, county and federal highways,] and for no other purpose.

(2) *As used in this Act unless the context requires otherwise, "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans; acquisition of rights of way; relocation of utilities; lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the Bureau of Highways, design, operations, and construction manuals.*

(3) *"Urban roads" mean all public ways lying within the limits of the unincorporated urban place as described by the bureau of census tracts.*

(4) *"Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.*

HB 524, AN ACT relating to state and federal highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 177 is created to read as follows:

The bureau of highways shall apply lines on the outside borders of all roads in the state system of primary and secondary highways, including the city streets and federal highways. The lines shall be of a material and color which can be readily seen by motorists during periods of poor visibility.

Section 2. This Act shall become effective on July 1, 1974.

HB 593, AN ACT relating to motor carriers of household goods.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.624 is amended to read as follows:

(1) The term "household goods certificate" means a certificate granting authority to operate as an irregular route common carrier transporting uncrated office and store furniture and used household goods, [and] uncrated new furniture, *uncrated computers and electronic equipment which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, and crated computers and electronic equipment of such nature or value which are to be delivered for installation to the premises of the ultimate user; provided, however, that nothing herein shall be construed to obviate or remove any specific restriction or limitation as to areas which may be served that presently exist in any such certificate, and such limitation or restriction shall remain in effect.*

(2) Any person, or his respective predecessor in interest, engaged as of December 31, 1969, in the transportation of uncrated office and store furniture and used household goods, and uncrated new furniture, pursuant to a valid certificate issued by the department authorizing such activity as an irregular route common carrier, shall, upon application, be entitled to the issuance of a household goods certificate to thereafter authorize a continuation of the same operations, including a designation of the location of the situs of the office and terminal facilities of such person utilized as of December 31, 1969. Upon petition by any interested party, or, upon its own motion if it so desires, the department shall require a hearing upon any such application to establish an applicant's rights thereunder. Any subsequent change in situs, or additional situs to a household goods certificate shall be granted only upon application to the department in the same manner as other applications made under KRS 281.625.

HB 613, AN ACT relating to highway construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.121 is amended to read as follows:

The department of highways may cause any road construction or reconstruction to be done by employees of the department instead of through contractors when, in the opinion of the commissioner as expressed in an official order, any of the following conditions is found to exist:

(1) Emergency construction or reconstruction is made necessary by the fact that a road has been rendered unusable or the urgency of need for construction or reconstruction is apparent.

(2) Construction or reconstruction of access roads would serve as an inducement to industrial location or substantial expansion of industry, and the estimated cost of the project is less than *fifty* [twenty-five] thousand dollars (\$50,000) [(\$25,000)].

(3) The project involves: an existing road and provides for such work as improvement of sight distance, traffic marking, channelization or the addition or widening of traffic lanes or widening of shoulders; or construction, reconstruction, widening or strengthening of small bridges and projects for which preparation of detailed plans required to secure bids is unnecessary; or an emergency need does not allow for time for preparation of plans and advertisement for bids.

(4) No satisfactory bid is received for the construction or reconstruction of the road after all necessary steps have been taken to obtain bids for such work, and the estimated cost of the projects is less than *fifty* [twenty-five] thousand dollars (\$50,000) [(\$25,000)].

HCR 8, A CONCURRENT RESOLUTION calling on the United States Congress to appropriate monies to set up and fund a grant for research into development of an automotive carburetor which will provide improved gas mileage.

WHEREAS, the health and welfare of our nation's people are now threatened by a critical energy shortage; and

WHEREAS, Americans own 97,650,000 private passenger vehicles, and countless trucks, 46.1% of the world's total, which consume 75.3 billion gallons of gasoline and travel 1,005 billion miles a year; and

WHEREAS, 29.3% of our petroleum supply and 12.9% of our total energy supply is needed to fuel these vehicles; and

WHEREAS, the overall gas mileage of all American automobiles is only 13.3 miles per gallon; and

WHEREAS, authorities have long recognized that an improved carburetor would result in better gas mileage and a more efficient utilization of fuel;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States appropriate monies to establish a research grant for the development of a more efficient automotive carburetor to provide better gas mileage.

Section 2. That the Clerk of the House be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress.

HJR 19, A JOINT RESOLUTION requesting the Department of Transportation to designate Kentucky Highway 160 as a Blue Star Memorial Highway.

WHEREAS, the Blue Star Memorial Highway was projected by the National Council of State Garden Clubs, Inc., as a tribute to the men and women of the nation's Armed Forces; and

WHEREAS, it is fitting and appropriate that further recognition be awarded for the services and sacrifices so valiantly rendered;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Transportation is requested to designate Kentucky Highway 160 as part of the Blue Star Memorial Highway System.

Section 2. That the Department of Transportation allow a road side marker indicating the highway as a Blue Star Memorial Highway be placed on Kentucky Highway 160 at Benham, Harlan County, Kentucky.

Section 3. That the Clerk of the House send a copy of this resolution to Secretary James Gray, Department of Transportation, and Mrs. James H. Patton, President of the Lonesome Pine Garden Club, Benham, Kentucky.

The Committee on Judiciary reported **HB 95** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary reported **HB 320** with Committee Amendment attached thereto, **SB 51** and **SB 126** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 320, AN ACT relating to the publication of false news items.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 411 is created to read as follows:

As used in this Act the following terms have the following respective meanings:

(a) "Person" means an individual, partnership, association, corporation, campaign committee or other legal entity;

(b) "News Media" means any person, newspaper, magazine, radio or television station or other information media that prints, broadcasts or otherwise publishes or distributes news or information;

(c) "Sufficient demand for correction" is a demand for correction which is in writing, signed by the person aggrieved, his authorized attorney, or agent, that specifies the item or items claimed to be false, states wherein they are false, sets forth the true facts, and which is delivered or transmitted by registered or certified mail to the person or office of the offending news media within seven days after the publication of the offending item.

(d) "Correction" is either (a) the publication, of an acknowledgement that the item or items specified as false in the demand for correction are erroneous, or (b) the publication, of the aggrieved person's statement of facts as set forth in his demand for correction, exclusive of any portions thereof which are defamatory of another or obscene.

(e) "Conspicuous publication" in a newspaper or magazine is a publication which is printed on the same relative page and location and in as conspicuous type as the item specified as false in the demand for

correction. "Conspicuous publication" in a radio or television broadcast is a publication which is broadcast at substantially the same time of day, and with the same sending power, as the item specified as false in the demand for correction. Conspicuous publication in a handbill, letter or other written format is one published in the same format and size and distributed over the same area and in the same manner and number as the false publication. A publication in a particular manner which is agreeable to the aggrieved person shall be deemed conspicuous.

(f) "Timely publication" in a daily newspaper is a publication within three (3) business days after the day on which a sufficient demand for correction is received by the newspaper. "Timely publication" in a newspaper other than a daily newspaper or in a magazine is a publication in the next regular issue which is published after the day on which sufficient demand for correction is received by the newspaper or magazine. "Timely publication" in a radio or television broadcast is a publication within one (1) business day after the day on which a sufficient demand for correction is received by the station. Timely publication in a handbill, letter or other written format is one published in the same format and size and distributed within seven (7) days after delivery of sufficient demand for correction. A "business day" is any day other than a Sunday or legal holiday. A publication on a particular day which is agreeable to the aggrieved person shall be deemed timely.

Section 2. A new section of KRS Chapter 411 is created to read as follows:

(1) Any news media that prints, broadcasts, or otherwise publishes a news item or information that is false or erroneous shall upon sufficient demand for correction made by the person aggrieved, his attorney or agent, make a conspicuous and timely publication of a correction.

(2) An aggrieved person may in a civil action recover punitive civil damages from any news media that fails, upon receipt of sufficient demand, to publish a conspicuous and timely correction of a false or erroneous news item or information without proof of special damages. Failure of any news media to publish a correction by conspicuous and timely publication after a sufficient demand for correction has been delivered shall be admissible in evidence in any civil action and may be considered as an element of damages. Conspicuous and timely correction of a false or erroneous news item or information shall be a bar to recovery of damages unless the original publication was done maliciously or was known by the news media before publication to have been false.

The Committee Amendment to **HB 320** is as follows:

Amend printed copy of **HB 320**, page 3, lines 17 and 19, by inserting the words "concerning a person" after the word "Information"

and on page 3, line 19 by deleting the word "the" and substituting in lieu thereof the word "that"

SB 51, AN ACT relating to appeals to the Court of Appeals, including provisions as to appellate personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.150 is amended to read as follows:

The judges of the Court of Appeals, a majority of them concurring, may appoint *seven (7)* [four (4)] commissioners, who shall hold office at the pleasure of the court and who shall discharge the duties assigned to them by the court. Every commissioner appointed must have the qualifications prescribed by law for a judge of the Court of Appeals. Each commissioner shall be provided with an office, *suitably furnished* [in the Capitol at Frankfort, and the same shall be furnished in a way suitable for his duties by the division of purchases, and the expenses therefor shall be paid by a warrant drawn by the department of finance upon the state treasurer]. When the business of the court does not require their services the court shall terminate the appointment of any or all of the commissioners.

Section 2. KRS 21.060 is amended to read as follows:

(1) Appeals may be taken to the Court of Appeals as a matter of right from all final orders and judgments of circuit courts in civil cases except:

(a) Judgments where the value of the amount or thing in controversy is less than *five thousand dollars (\$5,000)* [twenty-five hundred dollars (\$2500)], exclusive of interest and costs;

(b) That portion of a judgment granting a divorce;

(c) Judgments punishing contempts;

(d) Bonds having the force of judgments.

(2) If the value of the amount or thing in controversy, exclusive of interest and costs, is as much as two hundred dollars (\$200), the Court of Appeals may grant an appeal from the judgment or final order of a circuit court when:

(a) It is satisfied from the record that the ends of justice require that the judgment appealed from be reversed; or

(b) The correct decision of a case cannot be had without construing a statute or section of the constitution put in issue in the case.

(3) Unless otherwise authorized by statute or code, no appeal shall be taken to the Court of Appeals from any order or judgment of any county, quarterly, police, fiscal or justice's court.

Section 3. KRS 21.080 is amended to read as follows:

Where the amount in controversy is as much as two hundred dollars (\$200), exclusive of interest and costs, and less than *five thousand dollars (\$5,000)* [twenty-five hundred dollars (\$2500)], application for appeal may be made to the Court of Appeals. The court shall promulgate rules governing the form of the application and the procedure to be followed after the application has been filed, which rules shall be designed to afford more simplified procedure for determination of appeals in cases of this class. The tax on appeals shall be paid only in cases in which an appeal is allowed.

SB 126, AN ACT relating to the compensation of judges and commissioners of the Court of Appeals and of circuit courts.

WHEREAS, under Sections 112 and 133 of the Kentucky Constitution the members of the Court of Appeals and Circuit Judges are required to be paid adequate compensation for their services, which requirement, under the decisions in *Wright v. Oates*, Ky., 314 S. W. 2d 952, *Perkins v. Sims*, Ky., 350 S. W. 2d, 715, and *Matthews v. Allen*, Ky., 360 S. W. 2d, 135, takes precedence over restrictive provisions of Sections 235 and 246 of the Kentucky Constitution; and

WHEREAS, in the light of compensation standards prevailing for other positions in public service in this state and for judicial positions in other states and in the Federal service, and further in the light of the reduced purchasing power of existing compensation, the General Assembly finds the salaries specified in this Act conform to minimum reasonable requirements of adequacy; and that the increase of compensation reflected in this Act over existing compensation is well within National non-inflationary guidelines; and

WHEREAS, it is in the best interests of the public that the holders of judicial offices be paid compensation such as to command the dignity and respect for the offices which are essential to the preservation of our system of government,

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.499 is amended to read as follows:

The salary of each circuit judge, payable out of the state treasury, shall be *twenty-six thousand dollars (\$26,000)* [twenty-three thousand, five hundred dollars (\$23,500)] per annum. The compensation payable under KRS 21.305 for services as a special commissioner of the Court of Appeals shall be included therein.

Section 2. KRS 64.497 is amended to read as follows:

The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be *thirty-one thousand and five hundred dollars (\$31,500)* [twenty-nine thousand dollars (\$29,000)] per annum. The salary of each commissioner of the Court of Appeals appointed pursuant to KRS 21.150, payable out of the state treasury, shall be *twenty-seven thousand and five hundred dollars (\$27,500)* [twenty-five thousand dollars (\$25,000)] per annum.

Section 3. Whereas, this Act provides for an increase in compensation for the present 83 circuit judges and for an increase in compensation for 3 additional circuit judges proposed in pending legislation, and an increase in the salary of present and proposed positions on the Court of Appeals there is hereby appropriated out of the General Expenditure Fund in the State Treasury the sum of \$252,500 in each of the fiscal years 1974-75 and 1975-76 for said salaries, and the sum of \$46,600 in each of the fiscal years 1974-75 and 1975-76 for the Judicial Retirement System.

Section 4. This Act shall become effective July 1, 1974.

The Committee on Appropriations and Revenue reported **HB 447** with Committee Amendment attached thereto, **HB 471**, **HB 489**, **HB 517** with Committee Amendment attached thereto, and **HB 555** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in

the Calendar.

HB 447, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.090 is amended to read as follows:

(1) For county purposes the fiscal court of each county [may levy a poll tax on each male resident of the county who is of the age of eighteen (18) years or over and is not exempt under KRS 142.020, and] shall levy an ad valorem tax on all property subject to county taxation. This section does not authorize the fiscal court to levy a tax to pay any railroad bonded indebtedness or any interest thereon. The [poll tax shall not exceed one dollar and fifty cents (\$1.50) on each person taxed, and the] ad valorem tax shall not exceed fifty cents (50) on each one hundred dollars' (\$100) worth of property taxed.

(2) In any county which has under the law established itself as a tubercular district the fiscal court shall levy a tax sufficient to maintain a tubercular institution and provide for the salaries of the medical staff thereof and any other necessary expenses incident thereto taking into consideration any federal, state, or private financial assistance which may be given to the institution or which by law the institution is entitled to receive. The levy shall be an ad valorem tax on all property subject to county taxation and shall not exceed ten cents (10) on each one hundred dollars' (\$100) worth of property so taxed and the ten cents (10) shall be an additional tax to the fifty cents (50) ad valorem tax limitation hereinbefore provided for.

Section 2. KRS 92.280 is amended to read as follows:

(1) The legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may [levy a poll tax not exceeding one dollar and fifty cents (\$1.50) on each male inhabitant of such city on the assessment date other than those exempted by KRS 142.020, such poll taxes to become due at the same time ad valorem taxes become due and to be collected in the same manner, and the legislative body of each city of the second to sixth class may also] impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

Section 3. KRS 160.475 is amended to read as follows:

(1) *Except as otherwise provided in KRS 160.470(2), KRS 160.476(4) and KRS 160.477(6) the* [The] ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not less than twenty-five cents (25) annually on each one hundred dollars (\$100) of property subject to local taxation nor more than one dollar and fifty cents (\$1.50) annually on each one hundred dollars (\$100) of property subject to local taxation.

[(2) The board of education of any district may request the levy of a poll tax, not exceeding two dollars (\$2.00) on each male inhabitant within the district over twenty-one (21) years of age who is not exempt by law from payment of poll tax.]

(2) [(3)] All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

Section 4. A new section of KRS Chapter 68 is created to read as follows:

(1) In any county which levied a poll tax in 1973, the county budget commission may include the revenue received from the poll tax in that year in the county budget and the State Local Finance Officer shall include such revenue when computing the maximum permissible revenue in accordance with the provisions of KRS 68.240(7) (a) (b) and (c).

Section 5. KRS 132.027 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no city shall levy a rate which exceeds the compensating tax rate defined in KRS 132.010, *except as provided in subsection (2) of this section.*

(2) *Notwithstanding the limitations contained in subsection (1) of this section, any city which levied a poll tax in 1973 may include the revenues received from the poll tax in that year in computing the compensating tax rate for 1974 and subsequent years.*

Section 6. KRS 142.020 is hereby repealed.

The Committee Amendment to **HB 447** is as follows:

Amend printed copy of **HB 447**, page 3, following line 19 by inserting the following subsection:

(3) *In any school district which levied a poll tax in 1973, the Superintendent of Public Instruction may include the revenue received from the poll tax in that year in computing the maximum permissible revenue for 1974 under the provisions of KRS 160.470(3).*

HB 471, AN ACT relating to exemptions from the motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

- (1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;
- (2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;
- (3) Motor vehicles which have been previously registered or titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;
- (4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States Government;
- (5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;
- (6) Motor vehicles transferred between husband and wife or parent and child;
- (7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;
- (8) Motor vehicles transferred to a corporation from a proprietorship when the business is incorporated;
- (9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;
- (10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;
- (11) The interest of a partner in a motor vehicle when other interests are transferred to him.
- (12) Motor vehicles repossessed by a secured party who has filed a financing statement as required by KRS 186.045 (2) and a repossession affidavit as required by KRS 186.045 (6). The reposessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle.

HB 489, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.460 is amended to read as follows:

- (1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.
- (2) The tax shall be collected by the county court clerk or other officer with whom the vehicle is required to be registered:
 - (a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,
 - (b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Department of Revenue *on forms provided by the department* [in the same manner as registration fees on motor vehicles are required to be reported and remitted to the department by KRS 186.230 (5)]. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

Section 2. A new section of KRS Chapter 138 is created to read as follows:

The county clerk shall report and remit each Monday to the Department of Revenue all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. He shall make all checks payable to the State Treasurer. Unless the clerk forwards duplicates of all receipts issued by him during the reporting period with his report and remits the amount shown due by the report within seven days after the report and remittance are due, he shall pay a penalty of one percent per month or fraction thereof on the amount of money shown to be due on the report. The department may in its discretion grant a county clerk a reasonable extension of time to file his report and remit all moneys not to exceed ten days for any one report. The extension however must be requested prior to the end of the seven-day period and shall begin to run at the end of said period. All penalties collected under this provision shall be paid into the State Treasury as a part of the revenue collected under KRS 138.450 to 138.655.

HB 517, AN ACT relating to school taxes.

WHEREAS, it is the specific intent of the legislature to provide that school taxes be levied in the school district rather than county-wide; and

WHEREAS, it is desirable that a referendum be held on the tax, if a certain number of voters equal to a specific percentage of the votes cast in the district, protest the tax;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.593 is amended to read as follows:

Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, request the fiscal court to levy in its district one (1) of the school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.627, 160.633 to 160.648 KRS [160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633]. The fiscal court shall levy in the district, within fifteen (15) days of such request, the school tax at the rate requested. *The imposition of any tax levied under the provisions of this Act shall be limited to the territory of the school district requesting the levy.* [All taxes referred to in this section shall be levied on a county-wide basis unless the school board of a school district within the county requests that the tax levied shall not be assessed against the residents of its school district, in which case the residents of that school district shall be exempted from the tax.] In those counties where one (1) of the taxes referred to by this section is in effect *county-wide on the effective date of this Act*. [June 16, 1972], the taxes shall continue to be levied on a county-wide basis. Revenue produced by such taxes shall be distributed on an average Daily Attendance to those districts levying such taxes.

Section 2. KRS 160.595 is amended to read as follows:

The imposition of school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.627, 160.633 to 160.648 [160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633] shall be by order or resolution of the fiscal court. No more than one such order or resolution shall be passed in any one (1) calendar year, and no

more than one (1) school tax authorized by KRS 160.593 to 160.597, 160.601 to 160.627, 160.633 to 160.648 [160.605 to 160.611, 160.613 to 160.617, 160.621 to 160.633] shall be in effect in any one (1) district at any one (1) time.

Section 3. KRS 160.485 is amended to read as follows:

(1) The imposition of license fees authorized hereby shall be by order or resolution of the fiscal court. There shall be no more than one (1) such order or resolution passed in any (1) one calendar year. In the case of license fees required to be imposed pursuant to subsection (2) of KRS 160.484 the fiscal court shall make the order or resolution within ten (10) days following receipt of the first request which makes subsection (2) of KRS 160.484 effective.

(2) The order or resolution of the fiscal court imposing license fees pursuant to subsections (1), (2), or (4) of KRS 160.484 shall go into effect thirty (30) days after its passage. If during the thirty (30) days next following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to fifteen per cent (15%) of the votes cast in the county *or district* for the office receiving the greatest total vote at the last preceding presidential election is presented to the fiscal court protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect until after the election referred to in subsection (3) of this section. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct, and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, designation, or number of the district or ward wherein the precinct is situated. Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 117.630 or subsection (2) of KRS 117.720, as the case may be. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall give necessary and appropriate aid to the fiscal court so that the latter body may make the initial, but not conclusive, determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(3) Thereupon the fiscal court shall submit to the voters of the county at the next regular election or called common school district election, either of which to be held not less than sixty (60) days from the date of passage of said order or resolution, the question as to whether such license fees for common school purposes shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against." If a majority of the votes cast upon the question oppose its passage, the order or resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the order or resolution shall go into effect.

(4) License fees imposed pursuant to KRS 160.482 to 160.488 shall become applicable upon the date specified in the order or resolution, but in no event later than the first day of the calendar year first beginning after the day upon which the said order or resolution is made.

The Committee Amendment to **HB 517** is as follows:

Amend printed copy of **HB 517**, page 4, line 20, by inserting after the word "county" the words "*or district*"

HB 555, AN ACT relating to juror compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29.390 is amended to read as follows:

(1) Grand jurors and petit jurors in circuit court shall each be paid five dollars per day for jury service. Persons whose names are on the jury list for jury service in circuit court, or are summoned under KRS 29.280 to supply a deficiency, who appear in person in court in response to summons who do not claim exemption or ask to be relieved from jury service, shall receive five dollars per day for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

(2) Except as the amounts which may be expended therefor may be limited by regulations issued by the Department of Finance, the cost of meals, and where they are kept together over night, the cost of lodging, for all petit jurors ordered to remain together in the custody of the sheriff during the trial of any case, shall be paid by the circuit clerk out of the funds advanced by the Department of Finance as provided in KRS 28.180. The clerk shall obtain a receipt for the payment of such costs which shall be included in his settlement with the Department of Finance.

(3) In courts inferior to the circuit court, [except in counties containing a city of the second class,] each juror shall be paid \$1.50 for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.

(4) *The fiscal court of any county may by ordinance provide that jurors in courts inferior to the circuit court be paid out of the county's general fund at a maximum rate of five dollars (\$5.00) per day for jury service; provided, however, that the rate shall not be less than that set in subsection (3) of this section.* [In courts inferior to the circuit court, in counties containing a city of the second class, each juror shall be paid \$1.50 for each case in which he serves, but if the same juror serves on more than two juries in one day he shall not be allowed a fee for the cases in excess of two.]

Calendar

HB 395, HB 485 with Committee Amendment attached thereto, **HB 503** with Committee Amendment attached thereto, **HB 481** with Committee Substitute attached thereto, **SB 42** with Committee Amendment attached thereto, **SB 70, HB 76** with Committee Amendment attached thereto, **HB 361, HB 397, HB 100** with Committee Substitute attached thereto and Committee Amendment to the Committee Substitute attached thereto, **HB 121** with Committee Amendment attached thereto, **HB 168** with Committee Amendment attached thereto, **HB 169, HB 393, HR 25, HR 39, HR 49,** and **HB 2** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 2, SB 73, SB 90, SB 178, HB 34, HB 53** with Amendment, **HB 75** with Amendment, and **HB 117**.

Representative Swinford moved that the rules be suspended to go to Orders of the Day. Agreed.

Orders of the Day

Representative Swinford moved that consideration of **HB 304** and **HB 128** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 126**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Imes moved the adoption of the Committee Amendment No. 1 to **HB 126**. Agreed.

Representative Imes moved that **HB 126** as amended be placed upon its passage.

Representative Hancock moved the adoption of the following Floor Amendment No. 3 to **HB 126**:

Amend printed copy of **HB 126**, page 4, line 12, by deleting "six (6)" on line 12 and add the following after the word "than": "*one (1)*"

and on line 13, by deleting "months" and add the following: "*year*"

and on page 6, line 24, by deleting "six (6)" and add the following after the word "than": "*one (1)*"

and on line 25, by deleting "months" and add the following: "*year*"

On the roll call the vote was yeas 36-Adams, Allen, Arnold, Blythe, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Gay, Givhan, Guenthner, Hancock, Hellard, Hurst, Kafoglis, Kareem, King, Kleier, Mason, O'Brien, Pearman, Robinson, Sale, Siemens, Stephens, Stewart, Stone, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White. Nays 31-Bennett, Benson, Beshear, Blandford, Bowles, Brewer, E. Brown, Burch, Clapp, Dunn, Foster, Graves, Hardin, Head, Hughes, Imes, Isler, Kenton, Kidd, Lewis,

Little, McBride, Morgan, Paxton, Quickert, Rattliff, Richardson, Romines, Sharpe, Thomas, Wible.

Agreed.

On the roll call the vote was yeas 90-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 126 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 126** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 252** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Imes moved the adoption of the following Floor Amendment No. 1 to **HB 252**:

Amend printed copy of **HB 252**, page 5, line 8, after the word "Instruction" delete the words: "The Council on Public Higher Education" and be replaced with the words: "The Legislative Research Commission"

The Floor Amendment No. 1 to **HB 252** was rejected by voice vote.

Representative Swinford moved that **HB 252** be placed upon its passage.

On the roll call the vote was yeas 90-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 0.

HB 252 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 252** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 301** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Nett moved that **HB 301** be placed upon its passage.

On the roll call the vote was yeas 54-Arnold, Bennett, Benson, Blandford, Bruce, Burch, Clapp, Crupper, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Givhan, Guenther, Hancock, Hellard, Holbrook, Hughes, Hurst, Isler, Karem, King, Kleier, Lewis, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McGill, Nett, Pearman, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Stone, Troop, Turner, Van Horn, Vincent, J. White, Whitfield. Nays 37-Adams, Allen, Beshear, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Chandler, Clarke, Dawahare, Denham, Freeman, Gay, Graves, Hardin, Harris, Head, Hislope, Hopkins, Kafoglis, Kenton, Kidd, Little, May, McBride, O'Brien, Overstreet, Paxton, Reynolds, Sharpe, Swinford, Watkins, Wells, G. White, Wible.

HB 301 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 301** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 354** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved that **HB 354** be placed upon its passage.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Benson, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 1-Richardson.

HB 354 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 354** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 367** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Stone moved that **HB 367** be placed upon its passage.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 367 was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 367** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 369** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Morgan moved that **HB 369** be placed upon its passage.

On the roll call the vote was yeas 87-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sales, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 369 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 369** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 372**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 390** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved that **HB 390** be placed upon its passage.

On the roll call the vote was yeas 89-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 390 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 390** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 391**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the Committee Amendment No. 2 to **HB 391**.

Representative Stewart moved that Committee Amendment No. 2 to **HB 391** be laid on the table.

Representative Stewart moved that his motion to table Committee Amendment No. 2 to **HB 391** be withdrawn. Agreed.

Representative Stewart moved that **HB 391**, with Committee Amendment attached thereto, be laid on the Clerk's desk.

Representative Stewart moved that his motion to lay **HB 391**, with Committee Amendment attached thereto, on the Clerk's desk be withdrawn. Agreed.

Representative Swinford moved the adoption of Committee Amendment No. 2 to **HB 391**. Agreed.

Representative Swinford moved the adoption of the following Floor Amendment No. 3 to **HB 391**:

Amend printed copy of **HB 391**, page 1, line 12, by adding after line 12 the following new section:

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16).

(2) Any person whose operator's license has been suspended, during the period of suspension.

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued.

(4) An habitual drunkard or drug addict.

(5) Any applicant who has previously been adjudged insane or an idiot, imbecile [, epileptic] or feeble-minded, and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or feeble-minded with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property.

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways.

(7) Any person who is unable to understand highway warnings or direction signs in the English language.

(8) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination.

(9) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof.

(10) Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths.

(11) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186 or 187 until the person has forwarded to the department a reinstatement fee of five dollars (\$5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers.

Agreed.

Representative Swinford moved that **HB 391** as amended be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 1-Nett.

HB 391 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 391** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 420** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved that **HB 420** be placed upon its passage.

On the roll call the vote was yeas 75-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hislope, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Wible. Nays 7-Allen, Hellard, Holbrook, Imes, Robinson, Stephens, Stone.

HB 420 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 420** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 429** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Wible moved that **HB 429** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 2-Hancock, Imes.

HB 429 was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 429** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 455** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Kafoglis moved that **HB 455** be placed upon its passage.

On the roll call the vote was yeas 64-Adams, Bennett, Benson, Beshear, Blandford, Blume, E. Brown, Burch, Chandler, Crupper, Davis, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Hellard, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, Kleier, Loudon, Mann, Mason, May, Maynard, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmidt, Sharpe, Siemens, Stewart, Swinford, Thomas, Troop, Turner, Vincent, Watkins, G. White, Whitfield, Wible. Nays 14-Allen, Bowles, DeMarcus, Holloway, Imes, Kareem, Lewis, Lindsay, Little, McBee, Robinson, Stephens, Van Horn, J. White.

HB 455 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 455** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 149**, with Committee Amendment attached thereto, be taken from Orders of the Day and read for the third time by title only. Agreed by a majority of members elected.

Representative Quickert moved the adoption of Committee Amendment No. 1 to **HB 149**. Agreed.

Representative Quickert moved that **HB 149** as amended be placed upon its passage.

On the roll call the vote was yeas 66-Benson, Beshear, Blandford, Blume, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Foster, Givhan, Hancock, Hardin, Harris, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Richardson, Roberts, Sale, Schmaedecke, Sharpe, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible. Nays 11-Allen, Clapp, Dietz, Guenther, Head, Hellard, Holloway, Kafoglis, Little, Robinson, Stone.

HB 149 as amended was passed and the title agreed to.

Representative Quickert moved that the vote by which **HB 149** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 167** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 268** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Van Horn moved that **HB 268** be placed upon its passage.

Representative Stone moved that **HB 268** be laid on the Clerk's desk.

On the roll call the vote was yeas 18-Blythe, Davis, Dawahare, Donnermeyer, Givhan, Guenther, Hislope, Holbrook, Holloway, Hopkins, Hurst, Kafoglis, Mason, Maynard, Overstreet, Stone, Thomas, Vincent. Nays 65-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Denham, Dunn, Foster, Freeman, Graves, Hancock, Hardin, Harris, Head, Hellard, Hughes, Imes, Isler, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Robinson, Romines, Sale, Schmaedecke, Sharpe, Stephens, Stewart, Swinford, Troop, Turner, Van Horn, Wells, G. White, J. White, Whitfield, Wible.

The motion that **HB 268** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 82-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holloway, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 9-Allen, Blythe, Guenther, Holbrook, Hopkins, Mason, Overstreet, Stephens, Stone.

HB 268 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 268** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 386** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Watkins requested that he be recorded as voting "yea" on **HB 367**.

Representative Swinford moved that **HB 404**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Quickert moved the adoption of the Committee Substitute for **HB 404**. Agreed.

Representative Quickert moved that **HB 404**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Arnold, Bennett, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Hurst, Imes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 6-Allen, Beshear, Hopkins, Karem, Overstreet, Robinson.

HB 404, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 404**, by way of Committee Substitute was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 421** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 421** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 1-Priddy.

HB 421 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 421** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 422** be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Swinford moved that **HB 422** be placed upon its passage.

On the roll call the vote was yeas 90-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Wible. Nays 0.

HB 422 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 422** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 514**, with Committee Substitute attached thereto, be taken from Orders of the Day and read for the third time by its title only. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 514**. Agreed.

Representative Burch moved that **HB 514**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 0.

HB 514, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 514**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HR 30**, **HB 64**, and **HB 164** be deferred and that they retain their positions in Orders of the Day. Agreed.

Representative Swinford moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative Swinford moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Swinford moved that the rules be suspended to go to Motions, Petitions and Communications. Agreed.

Motions, Petitions and Communications

Representative Whitfield moved the adoption of the following Legislative Citation No. 103:

The House of Representatives of the Commonwealth of Kentucky hereby honors George L. Atkins, Jr. for having been chosen one of five Outstanding Young Men of Kentucky for 1973-74, by the Kentucky Jaycees. This body commends Mayor Atkins for his accomplishments, which include the creation of an environmental improvement commission, a drug enforcement committee, and the initiation of overall planned growth for Hopkinsville. (Sponsored by Representatives Bruce and Whitfield)

Agreed.

Representative Reynolds requested that he be recorded as voting "yea" on **HB 313**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 648, by Representatives Morgan and Holloway: AN ACT relating to electrical inspectors and electricians.

HB 649, by Representative Lewis: AN ACT relating to the funeral expenses of certain veterans and providing a grant.

HB 650, by Representatives McBrayer, Holloway, Burch, Clapp, Guenther, Holbrook, Kenton, Loudon, McBride, McGill, Morgan, O'Brien, Sale, Schmidt, Stewart, Turner and Watkins: AN ACT relating to the financing of pollution control facilities for industrial concerns and public utility companies by cities and counties.

HB 651, by Representative Kenton: AN ACT relating to the Kentucky State Racing Commission.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 527**, **HB 535**, **HB 544**, **HB 550**, **HB 442**.

Banking and Insurance: **HB 542**, **HB 549**.

Counties and Special Districts: **HB 503**.

Appropriations and Revenue: **HB 68**.

Motions, Petitions, and Communications (continued)

Representative Graves moved that **HB 503** be recommitted to the Committee on Counties and Special Districts. Agreed.

Representative Bruce moved that **HR 41** be sent to the Committee on Appropriations and Revenue. Agreed.

The following members requested that they be recorded as voting as follows:

Representative Hancock, "no" on **HB 514**; Representative King "yes" on **HB 126**; Representative Mason, "no" on **HB 404**; Representative Romines, "yes" on **HB 149**; Representative Richardson, "no" on **HB 404**; Representative Hislope, "yes" on **HB 313**.

Representative Romines requested that his name be added as a co-sponsor of **HB 478**.

Representative Siemens moved that **HB 620** be withdrawn in favor of **HB 544** which covers the same subject matter. Agreed.

Announcements

The following members filed Floor Amendments: Representative Head, Floor Amendment No. 1 to **HB 128**; Representative Benson, Floor Amendment No. 3 to **HB 330**; Representative Kenton, Floor Amendment No. 2 to **HB 372**.

The following meetings were announced:

Special meeting of Committee on Judiciary, February 22, 1974, 9:00 a.m., Room 305.

Special meeting of Committee on Labor and Industry, February 22, 1974, 9:00 a.m., Room 305A.

Meeting of Committee on Counties and Special Districts, 9:30 a.m., Room 307, for consideration of **HB 503**.

Meeting of Committee on Banking and Insurance, February 22, 1974, upon adjournment in Room 327.

The following letter of resignation was received from Frank H. Bassett, Jr., as Janitor of the House of Representatives, effective at the close of the day, February 28, 1974:

February 20, 1974

To: Tom Hogan, Administrative Assistant, Speaker of House

To: Addie Stokley, Clerk of the House

I herewith tender my resignation, as Janitor of the House of Representatives, effective at the end of the day February 28, 1974.

s/Frank H. Bassett, Jr.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 a.m., February 22, 1974. Agreed.

FRIDAY, FEBRUARY 22, 1974

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend Donald Durhan, Centenary United Methodist Church, Lexington.

The roll was called. All present except Representatives Hinkle and Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Hinkle and Smith.

Representative Hughes moved that the reading of the Journal of February 21, 1974, be dispensed with and the same approved. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 34** and **HB 117** have been examined and found correctly enrolled. **HB 34** and **HB 117** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 34 and **HB 117** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 652, by Representative Chandler: AN ACT relating to podiatry.

HB 653, by Representative Schmaedecke: AN ACT relating to Tuberculosis Sanitorium Districts.

HR 61, by Representative Hislope: A RESOLUTION relating to an interchange on the Cumberland Parkway at Chester View in western Pulaski County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 643**.

Business Organizations and Professions: **HB 648**.

Elections and Constitutional Amendments: **HB 646**.

Health and Welfare: **HB 649**.

Judiciary: **HB 647.**

Labor and Industry: **HB 645, HB 644.**

State Government: **HR 59, HR 60, HB 651, HB 650, HB 642.**

Report of Committees

The Committee on Rules reported **HB 21, HB 305, HB 520, SB 87, HB 76** with Committee Amendment attached thereto, have been posted for passage in Orders of the Day, February 25, 1974.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 540, HB 541, HB 565, HB 567, HB 570, HB 573, HB 600, HB 601, HB 605, HB 606, SB 157.**

Calendar

HB 96 with Committee Amendments attached thereto, **HB 166, HB 441** with Committee Amendment attached thereto, **HB 462, HB 478, HR 2, HB 233** with Committee Amendment attached thereto, **HB 314** with Committee Substitute attached thereto, **HB 259** with Committee Amendment attached thereto, **HB 571, SB 75** with Committee Amendment attached thereto, **HB 444, HB 476, HB 238** with Committee Amendment attached thereto, **HB 510, HB 524, HB 593, HB 613, HCR 8, HJR 19, HB 320** with Committee Amendment attached thereto, **SB 51, SB 126, HB 447** with Committee Amendment attached thereto, **HB 471, HB 489, HB 517** with Committee Amendment attached thereto, and **HB 555** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Benson moved that **HB 330** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Karem moved the adoption of the following Legislative Citation No. 99:

The House of Representatives of the Commonwealth of Kentucky hereby commends Mrs. Wendell Ford for the redecoration of the Governor's Mansion to a style harmonious with the architecture of the Mansion and in keeping with the formality of a state mansion. This body expresses appreciation for the appearance of this beautiful mansion which serves as the Governor's home and as a place for entertainment and state functions. (Sponsored by Representative Karem)

Agreed.

Representative Harris moved the adoption of the following Legislative Citation No. 100:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Livingston Central High School Choir on having received a superior rating at the First District 1973 Regional Choir Contest at Murray State University and commends Mrs. Pauline Stringer for her able direction in making possible this accomplishment. (Sponsored by Representative Harris)

Agreed.

Senate Message

Announcing passage of **SB 208**, **HB 14**, **HB 39** with Committee Substitute, **HB 57**, and **HB 216** with Amendment.

Motions, Petitions, and Communications (continued)

Representative King moved that the vote on **HB 126** be reconsidered.

On the roll call the vote was yeas 57-Allen, Arnold, Bennett, Blandford, Blume, Blythe, Brewer, Bruce, Burch, Chandler, Clapp, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Graves, Guenther, Harris, Holbrook, Hopkins, Hughes, Imes, Isler, Kenton, King, Kleier, Lewis, Lindsay, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Paxton, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Thomas, Troop, Turner, Van Horn, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 10-Beshear, Crupper, Foster, Hancock, Kafoglis, Karem, Mason, Stephens, Stone, Vincent.

The motion that the vote on **HB 126** be reconsidered was adopted.

Representative Givhan filed Floor Amendment No. 1 to **SB 51**.

Representative Quickert moved that **HB 426** be taken from the Committee on Judiciary and sent to the Committee on Counties and Special Districts. Agreed.

Representative Romines moved that the House go to the order of business of Orders of the Day.

Representative Siemens announced a meeting of the Committee on Labor and Industry on February 25, 1974, 12:30 P.M., Room 305, to discuss **HB 37** and **HB 46**.

Representative Hislope moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION requesting a safety belt for the chair of the Speaker of the House of Representatives.

WHEREAS, the great chair of the Speaker is built to sway so easily, to turn, or to tilt in any direction; and

WHEREAS, the Speaker violently and strenuously exerts himself to maintain his equilibrium; and

WHEREAS, the balanced position of the Speaker in the chair is as difficult to maintain as the perch of a bird on a tender twig swayed by a strong wind; and

WHEREAS, the Speaker, on more than one occasion, has almost spilled his equilibrium, fallen upon his face, shaken his honor, and bruised his dignity before this august body; and

WHEREAS, the safety, the dignity, and the honor of the Speaker is of the utmost concern of this house;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That a safety belt of ground hog hide, for the Speaker's safety, be attached to his chair, said ground hog to be caught by his honor the gentleman from Harlan 88, and that said belt be ten inches wide and be fashioned, processed, tanned and hand rubbed by their honors the gentlemen from Casey and Wayne Counties.

Section 2. That the processors of the raw hide belt also shall forge and fashion four great buckles of iron to attach the safety belt to the Speaker's chair, so fashioned and designed that the two buckles of iron, on the right, will disattach when his honor desires to rise, and when the Speaker again resumes his seat the

Sergeant-at-Arms will place the raw hide safety belt around the Speaker and securely buckle him in the chair.

On the roll call the vote was yeas 30-Allen, Bennett, Blandford, R. Brown, Davis, Dawahare, Denham, Freeman, Gay, Guenther, Hardin, Hislope, Holbrook, Hollway, Hopkins, Kenton, Loudon, Mason, Maynard, McBrayer, Overstreet, Reynolds, Schmaedecke, Schmidt, Stewart, Stone, Swinford, Watkins, Wells, G. White. Nays 38-Beshear, Blume, Burch, Chandler, Clarke, Crupper, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Graves, Harris, Hellard, Hughes, Imes, Kafoglis, Karem, Kidd, Kleier, Lewis, Mann, May, McBride, Nett, Paxton, Priddy, Quickert, Richardson, Robinson, Romines, Sale, Stephens, Thomas, Van Horn, J. White, Whitfield, Wible.

The motion that **HR 59** be adopted was rejected.

Representative Richardson moved that the vote by which the motion that **HB 426** be taken from the Committee on Judiciary and sent to the Committee on Counties and Special Districts was adopted be reconsidered.

On the roll call the vote was yeas 59-Adams, Allen, Arnold, Benson, Beshear, Blume, Blythe, Brewer, Burch, Clarke, Crupper, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Givhan, Harris, Head, Hellard, Hopkins, Imes, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, Overstreet, Paxton, Priddy, Rattliff, Reynolds, Richardson, Romines, Schmidt, Sharpe, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 8-Bennett, Davis, Isler, Mason, O'Brien, Quickert, Schmaedecke, Yates.

The motion that the vote by which the motion that **HB 426** be taken from the Committee on Judiciary and sent to the Committee on Counties and Special Districts was adopted be reconsidered was adopted.

Representative Richardson moved that **HB 426** be referred to the Committee on Judiciary.

On the roll call the vote was yeas 46-Allen, Beshear, Blythe, Brewer, R. Brown, Burch, Clarke, Crupper, Dawahare, Denham, Donnermeyer, Freeman, Gay, Givhan, Head, Hellard, Holbrook, Hopkins, Imes, Isler, Kafoglis, Karem, Kidd, King, Mann, May, McBrayer, McBride, Morgan, Nett, Overstreet, Paxton, Rattliff, Reynolds, Richardson, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 23-Bennett, Benson, Blume, Chandler, Davis, Dunn, Foster, Graves, Kenton, Kleier, Loudon, Mason, Maynard, McBee, O'Brien, Pearman, Priddy, Quickert, Romines, Sale, Schmaedecke, Schmidt, Yates.

The motion that **HB 426** be referred to the Committee on Judiciary was adopted.

Orders of the Day

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 128** be taken from Orders of the Day, read for the third time by its title only, and placed upon its passage. Agreed by a majority of members elected.

Representative Head moved the adoption of the following Floor Amendment No. 1 to **HB 128**:

Amend printed copy of House Bill 128 on page 3, line 9 by striking the word "ten" and substituting "six",

and on page 3, lines 14 and 15, by striking all words after "board,"

and on page 4, line 6, by striking the word "may" and substituting "shall"

and on page 4, line 7, by striking all words after "fee" and substituting "not to exceed \$20."

Agreed.

Representative Head moved that **HB 128** as amended be placed upon its passage.

On the roll call the vote was yeas 79-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Paxton, Pearman, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 128 as amended was passed and the title agreed to.

Representative Swinford moved that **HB 372**, with Committee Amendment attached thereto, be taken from Orders of the Day, read for the third time by its title only, and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of Committee Amendment No. 1. Agreed.

Representative Kenton moved the adoption of the following Floor Amendment No. 2 to **HB 372**:

Amend printed copy of House Bill 372 on pages 1 and 2 after Section 1 after paragraph (3) add the following:

"(4) Nothing contained in this Act shall be applicable to persons employed by the Commonwealth of Kentucky in Merit System Position Classifications. The provisions of this Act shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training or experience of those who seek to engage in the practice of social work as Merit System employees of the Commonwealth of Kentucky."

and on page 2, line 8 after "and" insert the word "non-medical" before the word "psychotherapy"

Agreed.

Representative Kenton moved that **HB 372** be placed upon its passage as amended.

On the roll call the vote was yeas 70-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gay, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kleier, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Paxton, Priddy, Reynolds, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, Whitfield, Wible, Yates. Nays 8-Davis, DeMarcus, Denham, King, Overstreet, Richardson, Robinson, J. White.

HB 372 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 372** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 167**, **HB 386**, and **HR 30** be deferred and that they retain their position in Orders of the Day. Agreed.

Representative Swinford moved that **HB 64**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage. Agreed.

Representative Swinford moved that the House concur in the following Senate Amendments to **HB 64**:

Amend printed copy of House Bill 64 as follows:

Amendment No. 1:

On page 5, line 6, by striking the word "*sixteen*" and inserting in lieu thereof the word "*seventeen*" and

On page 7, lines 16, 17, and 18, by striking the words "two of them must have had at least five years' experience in the exploration for or production of oil or gas" and inserting in lieu thereof the words "not more than one of them may be directly employed in the exploration for or the production of oil or gas, or deriving more than fifty percent of such person's income from the exploration for or production of oil or gas, or engaged in a business directly servicing or supplying such activities. No member of the Commission shall participate in the deliberations of the Commission or vote on any matter before the Commission in which he, his employer, or any business unit in which he has a financial interest is an interested party; provided that a member of the Commission is not prohibited from deliberating or voting on matters of general interest, such as the fixing of statewide spacing patterns, affecting him, his employer, or a business unit in which he has financial interest as a member of a class of persons to be affected by a rule, regulation or order of the Commission." and

On page 9, lines 18, 19 and 20, by striking the words "The commission shall have jurisdiction and authority over all persons and property necessary therefor"; and

On page 14, line 20, by striking the words "a drilling unit" and inserting in lieu thereof the words "drilling units"; and

On page 15, lines 1, 2, 3, 4, and 5, by striking the words "Notices of such hearings prescribed herein shall be given by the commission in accordance with KRS Chapter 424. Each such notice shall specify the date, time and place of hearing and contain such other information as is essential to the giving of proper notice" and inserting in lieu thereof the words "Notice for hearings prescribed herein shall be given pursuant to KRS 353.680 and notice for hearings governing drilling units for a particular pool or special field rules shall be given to all persons reasonably known to the Commission to own an interest in the oil and gas therein"; and

On page 16, lines 14 and 15, by striking the words "notice given by the commission in accordance with KRS Chapter 424" and inserting in lieu thereof the words "the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit"; and

On page 18, lines 10, 11, 12, 13, 14 and 15, by striking the words "In the event a nonparticipating owners elects to participate in the drilling, and an owner of any operating interest in any portion of the pooled tract shall drill and operate, or pay the costs of drilling and operating, a deep well for the benefit of such nonparticipating owner as provided in the pooling order" and inserting in lieu thereof the words "If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating, a deep well as provided in the Commission's Order"; and

On page 19, line 1, by striking the word "twice" and inserting in lieu thereof the words "one and one-fourth (1 1/4) times"; and

On page 19, lines 17 and 18, by striking the words "in accordance with KRS Chapter 424" and inserting in lieu thereof the words "to all persons reasonably known to own an interest in the oil or gas in such pool"; and

On page 21, line 18, following the word "operator" insert the words "exclusive of any royalty or overriding royalty interest"; and

On page 26, lines 14, 15, 16 and 17, by striking the words "Whereas there is an immediate need to encourage exploration for oil and gas, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor" and inserting in lieu thereof the words "Each operator shall have the right to take in kind its share of any oil or gas produced from any drilling unit or pool unitized under this Act, provided, however, that such operator shall pay the expenses occasioned thereby and pays or accounts to the unit operator for such oil or gas or the value thereof if he has not paid his share of drilling, completing and operating costs." and

On page 26, following the end of Section 9, insert the words "Section 10. Nothing contained in this Act shall be construed as authorizing any operator, with or without an order of the commission, to drill upon, enter upon, or use in any manner the surface of any land without the consent of the owner thereof as evidenced by an oil or gas lease or otherwise."

Amendment No. 10 (Amendment to Amendment No. 1):

On page 4 of Amendment No. 1 by deleting after the word "thereof" the following: "as evidenced by an oil or gas lease or otherwise."

Amendment No. 2:

On page 14, by inserting after line 1 and before line 2 the following:

"(e) To wells for the production of oil to be drilled, deepened, or reopened and completed at a depth of less than two thousand (2,000) feet where there are no workable beds of coal at lesser depths and the formation from which the oil is expected to be extracted is not appreciably affected by factors, as determined by the Commissioner, other than natural drainage. The location of wells for the production of oil coming within this exception shall be at least two hundred (200) feet from the nearest boundary of the premises upon which the well is to be drilled, deepened or reopened; and the proposed location must be at least four hundred (400) feet from the nearest oil producing well."

Amendment No. 4:

On page 17, line 22 to add the following after "therein.":

"Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate said deep well shall be determined by competitive bids under the procedure set out in KRS 74.260."

Amendment No. 8:

On page 23, line 24, by striking out the period after "commission" and substituting therefor ", unless the court upon motion and for good cause shown determines that the interests of justice will be better served by the introduction of new evidence."

Amendment No. 11:

On page 7, line 15, after the word "conservation", delete the period and add the following: "and who shall serve in an ex-officio capacity as a non-voting member except in the case of a tie."

Agreed.

Representative Blandford moved that **HB 64** as amended be placed upon its passage.

Representative Kafoglis moved that **HB 64** as amended be laid on the Clerk's desk for amendments.

Representative Harris moved the adoption of the Previous Question on **HB 64** as amended.

On the roll call the vote was yeas 41-Bennett, Benson, Blandford, Blume, R. Brown, Burch, Chandler, Clapp, Dietz, Donermeyer, Dunn, Foster, Graves, Hardin, Harris, Hughes, Hurst, Isler, Loudon, Mann, McBee, McBride, Morgan, Nett, O'Brien, Paxton, Pearman, Priddy, Quickert, Reynolds, Sale, Sharpe, Siemens, Stewart, Swinford, Thomas, Turner, Vincent, Watkins, Wible, Yates. Nays 39-Adams, Allen, Arnold, Beshear, Blythe, Brewer, Bruce, Clarke, Crupper, Dawahare, DeMarcus, Denham, Gay, Givhan, Guenther, Hancock, Hellard, Hislope, Holbrook, Holloway, Hopkins, Kafoglis, Karem, Kidd, King, Lewis, Mason, Maynard, Overstreet, Rattliff, Richardson, Robinson, Stephens, Stone, Troop, Van Horn, G. White, J. White, Whitfield.

The motion that the Previous Question be adopted on **HB 64** was rejected.

On the roll call the vote was yeas 37-Adams, Allen, Arnold, Beshear, Blythe, Brewer, R. Brown, Bruce, Clarke, Crupper, Dawahare, DeMarcus, Denham, Freeman, Gay, Hancock, Hellard, Hislope, Hopkins, Kafoglis, Kareem, Kidd, King, Kleier, Lewis, Mason, Maynard, Nett, Overstreet, Rattliff, Richardson, Robinson, Stone, Van Horn, Wells, G. White, J. White. Nays 48-Bennett, Benson, Blandford, Blume, Chandler, Clapp, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenthner, Hardin, Harris, Holbrook, Holloway, Hughes, Hurst, Isler, Kenton, Lindsay, Loudon, Mann, McBee, McBrayer, McBride, Morgan, O'Brien, Paxton, Pearman, Priddy, Quickert, Reynolds, Sale, Sharpe, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Vincent, Watkins, Whitfield, Wible, Yates.

The motion that **HB 64** as amended be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 61-Bennett, Benson, Beshear, Blandford, Blume, Burch, Chandler, Clapp, Clarke, Dietz, Donnermeyer, Dunn, Foster, Graves, Guenthner, Hardin, Harris, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kenton, King, Kleier, Lindsay, Loudon, Mann, May, McBee, McBrayer, McBride, Morgan, Nett, O'Brien, Paxton, Pearman, Priddy, Quickert, Reynolds, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 29-Adams, Allen, Arnold, Blythe, Brewer, R. Brown, Bruce, Crupper, Dawahare, DeMarcus, Denham, Gay, Givhan, Hancock, Head, Hislope, Imes, Kareem, Kidd, Lewis, Mason, Overstreet, Rattliff, Richardson, Robinson, Stone, Thomas, G. White, J. White.

HB 64 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 64** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

The following letter was received from the Chief Clerk of the Senate: "The Senate respectfully requests that this Honorable Body return House Bill No. 216 to them for reconsideration."

Report on Enrolled Bills

The Committee on Enrollment reported **HB 57** and **HB 14** have been examined and found correctly enrolled. **HB 57** and **HB 14** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative Swinford moved that the House go into the order of business of Announcements. Agreed.

Announcements

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue upon adjournment in Room 305.

Representative Hopkins filed Floor Amendment No. 2 to the Committee Substitute for **HB 100**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 654, by Representative Wible: AN ACT relating to State depositories.

HB 655, by Representatives Swinford, Hellard and Head: AN ACT relating to strip mining.

HB 656, by Representatives Kleier, Freeman and Gay: AN ACT relating to production of crude petroleum.

HCR 62, by Representative Hislope: A CONCURRENT RESOLUTION relating to Zollicoffer Park, the site of the Battle of Mill Springs.

HCR 63, by Representatives Kenton, Dietz, Donnermeyer, Isler, King, Mann, McBee, Schmaedecke and Schmidt: A CONCURRENT RESOLUTION requesting and directing the Department for Natural Resources and Environmental Protection and the Department for Human Resources to use their facilities to alleviate the hazards to health and safety of all citizens of Ludlow-Bromley area created by the filling of the Lagoon.

HJR 64, by Representatives Nett, Mann, Donnermeyer, Schmidt, Kleier, Maynard, Burch, Yates, Benson, Quickert, and Chandler: A JOINT RESOLUTION creating an interim study commission on the voucher plan for education.

HB 657, by Representative Whitfield: AN ACT relating to the recovery of child support from responsible parents whose children are receiving public assistance.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 483, SB 137, HB 619.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Health and Welfare: **HB 139, HB 402.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 456**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 456, AN ACT relating to the sale of alcoholic beverages in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being

sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsection (2) of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of [the first or] second class in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) *Notwithstanding any of the provisions of subsections (1) and (2) of this section, the board of aldermen or other municipal legislative body of cities of the first class, or the fiscal court of counties containing a city of the first class for that portion of the county lying outside the corporate limits of such city, shall have the exclusive power by ordinance to permit the sale of distilled spirits and wine by the drink on Sunday by holders of a retail liquor by the drink license, provided however that such license is held by a hotel, motel, club, or restaurant receiving a minimum of forty percent (40%) of its food and beverage sales income from the sale of food and has a seating capacity of fifty (50) people at tables.*

(4) [(3)] In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (3) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

The Committee Substitute for **HB 456** is as follows:

HB 456, AN ACT relating to the sale of alcoholic beverages in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsection (2) of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of [the first or] second class in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) *Notwithstanding any of the provisions of subsections (1) and (2) of this section, the board of aldermen or other municipal legislative body of cities of the first class, or the fiscal court of counties containing a city of the first class for that portion of the county lying outside the corporate limits of such city, shall have the exclusive power by ordinance to permit the sale of distilled spirits and wine by the drink on*

Sunday by holders of a retail liquor by the drink license, provided however that such license is held by a hotel, motel, club, or restaurant receiving a minimum of forty percent (40%) of its food and beverage sales income from the sale of food and has a seating capacity of fifty (50) people at tables.

(4) The fiscal court of any county in which there is located a commercial airport not within the corporate limits of any city, and from which more than one million (1,000,000) passengers arrive or depart annually, shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times, including Sunday between the hours of one p.m., and midnight on Sunday, in which distilled spirits, wine and malt beverages may be sold under retail drink license for consumption on airport premises for accommodation of the traveling public; provided, however, that said hours established by the fiscal court for sales on the airport premises shall not be more restrictive than the closing hours for the county as a whole.

(5)[(3)] In any county containing a city of the first or second class or a commercial airport as provided in subsection (4) of this section in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2), (3) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

The Committee on Counties and Special Districts reported **HB 503**, with Committee Amendment No. 2 attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

Amend printed copy of House Bill 503 on page 4, line 9, by deleting the word "*processing*" and inserting in lieu thereof the word "*issuing*".

and, on page 4, line 16, by deleting the words "*June 30, 1974*" and inserting in lieu thereof "*January 1, 1975*".

The Committee on Health and Welfare reported **HB 136**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 136, AN ACT relating to public buildings and public accommodations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 56 is created to read as follows:

(1) "Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;

(2) "Public building" shall mean any building constructed, owned or leased by the Commonwealth or any political subdivision thereof;

(3) "Public accommodation" shall mean any structure used primarily by the general public as a place of gathering or amusement, including but not limited to: theaters, restaurants, hotels, factories, office buildings and stadia;

(4) "Board" shall mean the Board to Facilitate the Use of Public Buildings by the Physically Handicapped, created by Section 2 of this Act;

(5) "Commissioner" shall mean the Commissioner of the Department of Finance;

(6) "Department" shall mean the Department of Finance;

(7) "Facility for handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not restricted to, ramps, handrails, elevators, and doors;

(8) "Remodel" shall mean, with respect to an existing public building, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.

Section 2. A new section of KRS Chapter 56 is created to read as follows:

(1) The Board to Facilitate the Use of Public Buildings and Public Accommodations by the Physically Handicapped is created within the Department of Finance, but shall not be subject to the control of the Commissioner. The Board shall consist of the Commissioner, or his authorized representative, and six (6) members appointed by the Governor. Of the members initially appointed by the Governor, two (2) shall serve for two (2) years, two (2) for three (3) years, and two (2) for four (4) years, respectively, according to the terms of their respective appointments. Upon the expiration of the term of a member appointed by the Governor, his successor shall fill a term of four (4) years. Any vacancy in the office of an appointive member shall be filled for the unexpired term. The chairman of the Board shall be appointed by the Governor. At least three (3) of the appointive members of the Board shall be physically handicapped persons who are chosen from lists of names submitted by organizations and associations for the handicapped.

(2) Each appointive member of the Board shall be paid \$30.00 per diem for each day while in the actual performance of his duties as such, and shall also receive from the Commonwealth all expenses necessarily incurred by him in the performance of his duties.

(3) Clerical, technical and other assistance required by the Board shall be assigned to it by the Commissioner.

Section 3. A new section of KRS Chapter 56 is created to read as follows:

(1) The Board shall publish proposed rules and regulations of minimum requirements for facilities for handicapped persons in all public buildings and public accommodations in existence, under construction, reconstruction or modification within six (6) months after the effective date of this Act. Any interested person may submit to the Board written objections to the proposed regulations. If requested in writing by an interested person, the Board shall hold a public hearing within three (3) months of publication of the proposed regulations. Any interested person may appear at the hearing and present objections. Within six (6) months after the publication of the proposed regulations, the Board shall issue final regulations. The Board may, from time to time, revise the final regulations. Revised regulations shall be published by the Board as proposed revisions. The times and procedures for objection, hearing and issuance of final revised regulations shall be in accordance with the procedure established in this section.

(2) After the effective date of final rules and regulations promulgated by the Board, no building permit or other official authorization for construction, reconstruction or modification of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the rules or regulations promulgated by the Board; Provided, however, that upon application to the Board, said Board shall determine compliance with such rule or regulation to be impracticable in the particular case, in which event, unless such rule or regulation is wholly waived, such building shall be maintained in conformity with the modification of, or substitution for, the rule or regulation as the Board prescribes.

(3) Any rule or regulation may, to the extent that said Board deems it generally practicable, provide that public buildings and public accommodations in existence on its promulgation shall be subject to it one (1) year after its promulgation or as the Board shall specify. No public building shall be maintained after the specified date except in conformity with the rule or regulation unless upon application of the Board or officer in charge of such building, said Board shall determine compliance with such rule or regulation to be impracticable in the particular case, in which event, unless such rule or regulation is wholly waived, such building shall be maintained in conformity with the modification of, or substitution for, the rule or regulation as the Board prescribes.

Section 5. A new section of KRS Chapter 56 is created to read as follows:

The Board shall have all necessary powers to require compliance with its rules and regulations, and revisions thereof and substitutions thereof. The Board shall investigate any complaint or reported violation of this Act and where necessary to insure compliance with this Act the Board may at any time bring action for mandamus, injunction or other appropriate relief.

Section 5. KRS 56.493 is repealed.

The Committee Substitute to **HB 136** is as follows:

HB 136, AN ACT relating to public buildings and public accommodations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of public safety;
- (2) "Department" means the department of public safety;
- (3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;
- (4) "Owner" means any person who owns, occupies or has charge of any property;
- (5) "Property" means property of all types, both real and personal, movable and immovable;
- (6) "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;
- (7) "Order" or "special order" means an order of the commissioner, designed for the prevention of fire loss, which affects or may affect the property rights of a particular owner or designated property [.] ;
- (8) *As used in this Act, unless the context otherwise requires:*
 - (a) *"Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;*
 - (b) *"Public building" shall mean any building constructed, owned or leased by the Commonwealth or any political subdivision thereof;*
 - (c) *"Public accommodation" shall mean any building defined as a public accommodation by Title II of the Federal Civil Rights Act of 1964, whether or not it affects interstate commerce;*
 - (d) *"Facility for physically handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors;*
 - (e) *"American National Standard Institute Specifications" shall mean the American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and usable by, the Physically Handicapped, A 117.1-1961; and*
 - (f) *"Remodel" shall mean, with respect to an existing public building or public accommodation, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.*

Section 2. A new section of KRS Chapter 227 is created to read as follows:

- (1) The state fire marshal shall issue regulations relating to the minimum requirements for facilities for physically handicapped persons in all public buildings and public accommodations to be constructed or remodeled after the effective date of this Act. In doing so he shall adopt those standards known as the American National Standard Institute Specifications.
- (2) After the effective date of this Act, no building permit or other official authorization for construction or remodeling of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the regulations issued by the state fire marshal pursuant to this Act.

Section 3. KRS 56.493 is repealed.

The Committee on Labor and Industry reported **HB 521** and **HB 544** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 521, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 367 is created to read as follows:

Any person or business engaged in the sale of gasoline at retail shall post a sign stating the price per gallon of gasoline. Said sign shall:

- (1) Be placed so as to be clearly visible from the roadway; and
- (2) Have numerals indicating whole cents of not less than twelve (12) inches in height; and
- (3) Have numerals indicating fractional portions of a cent of not less than six (6) inches in height; and
- (4) Be composed of colors of a contrasting nature.

Section 2. The provisions of this Act shall not apply to a person or business engaged in the retail sale of gasoline, that has a sign posted on the effective date of this Act and which sign shall remain in continuous

use thereafter.

Section 3. A new section of KRS Chapter 367 is created to read as follows:

Any person or business who violates the provisions of this Act shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

HB 544, AN ACT relating to plumbers and plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.015 is amended to read as follows:

(1) This chapter applies and shall be in full force and effect in *all* counties of the Commonwealth. [containing a city of the first, second, third, or fourth class.]

[(2) The local board of health of any county including those counties not containing a city of the first, second, third, or fourth class, may adopt the state plumbing code promulgated by the state board of health as a regulation for the county, including the reasonable schedule of fees and charges fixed by the state board of health as authorized by subsection (3) of KRS 318.134. After adoption of the state plumbing code by a local board of health, such code shall apply and be in full force and effect in such county and in all cities and towns therein.]

(2) [(3)] The state plumbing code promulgated by the board under the provisions of this chapter applies and shall be in full force and effect for all public buildings regardless of location in the commonwealth.

(3) [(4)] This chapter shall not apply to farmsteads.

Section 2. KRS 318.020 is amended to read as follows:

(1) Nothing contained in this chapter shall be construed as prohibiting the employment of an apprentice[s] to assist a [licensed master or licensed] journeyman plumber[s] in *his* [their] duties.

(2) This chapter shall not apply to anyone who is employed or acts as a maintenance man.

(3) This chapter shall not apply to persons employed by any water company, water district or sanitation district, in the laying, maintenance, and operation of its mains and other appurtenances in the conduct of its business.

(4) The provisions of this chapter relating to the licensure of plumbers shall [not] apply to *all* persons engaged in the practice of plumbing. [in counties other than those containing cities of the first, second, third, or fourth class.]

Section 3. KRS 318.030 is amended to read as follows:

No person shall engage in plumbing or engage in or work at the trade of plumbing [in any county containing a city of the first, second, third, or fourth class]:

(1) Unless he is the holder of a valid and effective master plumber's license duly issued by the department in accordance with the provisions of this chapter; or

(2) Unless he is the holder of a valid and effective journeyman plumber's license duly issued by the department in accordance with the provisions of this chapter.

Section 4. KRS 318.057 is amended to read as follows:

(1) Persons actively engaged in the practice of plumbing as a master plumber in this state for a period of not less than three (3) years prior to *the effective date of this Act* [June 13, 1968,] in a county or counties not heretofore subject to the provisions of KRS chapter 318 shall, upon furnishing adequate proof thereof to the department and upon payment of an application license fee of twenty-five dollars (\$25.00), be entitled to a master plumber's license without examination. Application for such a license shall be filed with the department not later than ninety (90) days after *the effective date of this Act*. [June 13, 1968, or not later than ninety (90) days after the effective date a county becomes subject to the provisions of KRS chapter 318.]

(2) Persons actively engaged in the practice of plumbing as a journeyman plumber in this state for a period of not less than three (3) years prior to *the effective date of this Act* [June 13, 1968,] in a county or counties not heretofore subject to the June 13, 1968, in a county or counties not heretofore subject to the provisions of KRS chapter 318 furnishing adequate proof thereof to the department and upon payment of an application license fee of ten dollars (\$10.00), be entitled to a journeyman plumber's license without examination. Application for such a license shall be filed with the department not later than ninety (90) days after *the effective date of this Act*. [June 13, 1968, or not later than ninety (90) days after the effective date a county becomes subject to the provisions of KRS chapter 318.]

Section 5. KRS 318.090 is amended to read as follows:

(1) The department shall appoint and assign plumbing inspectors to each county subject to the provisions of this chapter.[and as provided in subsection (3) of this section.]

(2) Each plumbing inspector shall have at least eight (8) years experience as a journeyman or master plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

[(3) In counties other than those containing cities of the first, second, third, or fourth class in which the local board of health has adopted the state plumbing code by regulation for the county, the department shall assign plumbing inspectors to such county in consideration of the plumbing installation permit fees collected by the local health department.]

Section 6. KRS 318.100 is amended to read as follows:

No person shall advertise or hold himself out as a licensed master or licensed journeyman plumber within the commonwealth of Kentucky unless he is holder of a license from the State Department for Human Resources [of Health] in accordance with the provisions of this chapter. *No person other than a licensed master plumber shall hold himself out or advertise that he is permitted or authorized to perform plumbing work or services.*

Section 7. KRS 318.120 is amended to read as follows:

No person or corporation who assumes responsible charge and direction of other persons in the installation of plumbing and drainage [in counties containing cities of the first, second, third, or fourth class,] shall employ or engage any person not licensed under this chapter to perform and install plumbing and drainage. Provided, however, That this section shall not be deemed to prohibit the employment or use of an apprentice as defined in this chapter.

Section 8. KRS 318.134 is amended to read as follows:

(1) *No* [In counties containing a city of the first, second, third, or fourth class, and in counties in which the state plumbing code has been adopted by regulation of the local board of health, no] person, firm or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department, through a duly authorized inspector, employe or agent, finds that the plumbing was not constructed, installed or altered in accordance with such permit and the Kentucky state plumbing code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location and construction of water supply system, type of sewage disposal, location of septic tank, drain field or pit to be used. No plumbing installation permit shall be issued until plans of the sewage disposal have been submitted to and approved by the department together with the results of an approved percolation test.

(3) The board shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The board shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation or alteration of plumbing in public buildings.

Section 9. A new section of KRS Chapter 318 is created to read as follows:

No water supply shall be provided to any building by any public utility or water district where the plumbing system has not been installed and approved in accordance with the provisions of KRS Chapter 318 and the state plumbing code.

Section 10. A new section of KRS Chapter 318 is created to read as follows:

The Franklin Circuit Court shall have concurrent jurisdiction and venue in all civil, criminal, and injunctive actions instituted by the Department for Human Resources for the enforcement of the provisions of KRS Chapter 318 and the state plumbing code and the orders issued thereunder and the rules and regulations of the Secretary for Human Resources.

The Committee on Judiciary reported **HB 368** with Committee Amendment attached thereto, **HB 379** with Committee Substitute attached thereto, **HB 398**, **HB 432**, **HB 439**, **HR 24**, **SB 11** and **SB 25** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 368, AN ACT relating to equal rights for men and women.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.212 is amended to read as follows:

(1) The *spouse* [wife] of a veteran of the armed forces of the United States who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall be entitled to a ten (10) point preference. In such a case, the *spouse* [wife] loses [her] right to preference if the *disabled veteran* [husband] recovers. Also, if the *veteran's* [husband's] military service was peacetime service, *his spouse* [she] loses *the* [her] right to preference if he dies.

(2) Until *his spouse* [she] remarries, the *surviving spouse* [widow] of an honorably separated veteran who served on active duty during any war, or during the period April 28, 1952, through July 1, 1955, or in a campaign or expedition for which a United States campaign badge or service medal was authorized shall be entitled to a ten (10) point preference. This includes the *surviving spouse* [widow] of a *person* [man] meeting any of these service requirements who died while in the armed forces, unless the circumstances surrounding his death would have been cause for other than honorable separation.

(3) A *dependent parent* [The mother] of a veteran who lost his life under honorable conditions while on active duty in a war or in a campaign or expedition for which a campaign badge or service medal has been authorized, or during the period April 28, 1952, through July 1, 1955, or who became permanently and totally disabled because of a service-connected disability, shall be entitled to a ten (10) point preference provided that she is widowed, divorced, or separated from the father of the veteran, or the father is permanently and totally disabled. An otherwise eligible mother who has remarried may be granted preference only if, with reference to the subsequent marriage, her husband is permanently and totally disabled, or she is divorced or legally separated, or she has been widowed.

(4) As used herein, "ten (10) point preference" means the greatest number of points preference in examination for a position in the state service allowable under subsection (4) of KRS 18.210 to persons having served in the armed forces of the United States.

Section 2. KRS 21.370 is amended to read as follows:

Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his *surviving spouse* [widow], unless he has completed at least eight (8) years of service, including service before becoming a member. No *surviving spouse* [widow] of a retired member shall be entitled to any benefits unless *the person* [she] was the *spouse* [wife] of the member at the time he retired.

Section 3. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his *surviving spouse* [widow] is entitled to receive during *his* [her] lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his *surviving spouse* [widow] is entitled to receive during *his* [her] lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his *surviving spouse* [widow] is entitled to receive during *his* [her] lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his *surviving spouse* [widow] is entitled to receive during *his* [her] lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

Section 4. KRS 21.425 is amended to read as follows:

In any circumstances in which a *surviving spouse* [widow] would be entitled to any allowance under KRS 21.420, but there is no *surviving spouse* [widow] or the *surviving spouse* [widow] subsequently dies, and there is a surviving natural child or children of the members under the age of 18, the monthly allowance that the *surviving spouse* [widow] would have received or was receiving shall be continued for the benefit of such child or children remaining under the age of 18 until there are none under the age of 18.

Section 5. KRS 21.520 is amended to read as follows:

All of the assets of the special circuit judge fund established under KRS 23.350 to 23.370 hereby are transferred to the judicial retirement board established under KRS 21.430 and shall be available to that board for the purposes of KRS 21.350 to 21.480; Provided, however, That so long as any of the special circuit judges appointed under KRS 23.300 to 23.380 prior to July 1, 1962, continue in service and so long as any

circuit judge who made contributions to the special circuit judge fund prior to July 1, 1962, continues to be a member of the judicial retirement system established by KRS 21.350 to 21.480 or he draws benefits thereunder the assets so transferred and the income therefrom shall be held separate and apart for the purpose of paying compensation to such special circuit judges or benefits to such circuit judges; Provided, further, That the assets of the judicial retirement board as of June 30, 1962, and the income therefrom, shall also be held separate and apart for the purpose of paying benefits to the judges and regular commissioners of the Court of Appeals or their *surviving spouses* [widows] who are members of the judicial retirement system as of that date or who, having been members, have theretofore retired. Any appropriations or contributions to the judicial retirement board for fiscal years beginning on or after July 1, 1962, shall be available, without separation, for all of the purposes of KRS 21.350 to 21.480.

Section 6. KRS 26.610 is amended to read as follows:

(1) The police judge of every city of the first class shall appoint two (2) court matrons for a term of two (2) years, and until the qualifications of their successors, and may remove them for good cause. The judge shall cause his reasons for removal to be entered in the minutes of his court. The judge may fill all vacancies occurring in the office of court matrons. [One (1) matron shall be white and the other shall be of the colored race.]

(2) The court matrons shall be women of good moral character, with experience and training in social work, and otherwise fully qualified to perform the duties of their office. They shall be twenty-one (21) years of age or older.

(3) The court matrons shall investigate and report to the police judge upon the past histories, conditions of living, character, morals and habits of all women and girls awaiting trial in the police court, and shall exercise supervision of such women and girls while they are under suspended sentence until final disposition of the charges against them.

(4) The court matrons shall be paid out of the city treasury a salary, and shall be allowed, subject to the approval of the police judge, all necessary expenses incidental to investigation of cases.

Section 7. KRS 26.660 is amended to read as follows:

Police judges who are eligible for pension and retire from office, shall be paid out of the police judge pension fund, a pension not to exceed \$200 per year times the years of service for life. In the event of the death of a judge while drawing a pension, or eligible for a pension, one-half (1/2) of his pension shall continue to his *surviving spouse* [widow] and children under eighteen (18) years of age. If the pension legislation has been adopted by the city legislative bodies at the time of said retirement, it shall not be altered or changed during the time of the pension period of the retiring judge.

Section 8. KRS 29.185 is amended to read as follows:

At the commencement of each term of court at which jury cases may be tried, the judge shall administer to the sheriff and deputies the following oath:

"You do swear, without favor or affection, or without a desire to favor or injure the rights of any litigant, you will summon, when required, jurors for this county; that, to the best of your skill and judgment, you will select discreet, sensible, impartial and sober *persons* [men]; that you will not, directly or indirectly, communicate or converse with any jurymen, unless under the direction of the court, touching the subject matter of any suit pending for trial at that time; that you will not, by any means attempt to influence, advise, or control a jurymen in his opinion in any case under trial."

Section 9. KRS 36.320 is amended to read as follows:

(1) The board shall select a Director who shall be a paid employee of the Bureau, and he shall serve for a term of 4 years or until his successor is elected, and he shall be the chief executive and administrative officer of the Department and the Bureau. The board may, at any time, for good and sufficient cause, properly shown, dispense with the services of the director after notice has been given to the Director and a hearing had before the board, at which hearing the Director shall be heard in person, by counsel, or both. No person while serving as a Director shall be eligible to offer himself as a candidate in any primary, special or general election for any State or Federal elective office.

(2) The Director is authorized and directed to employ competent personnel to assist in the administration of the Bureau of Veterans Affairs, giving preference to veterans, their *surviving spouses* [widows] and dependents in the matter of employment in the Department. The Director shall define the duties of the employees and assign their official work stations.

(3) The Director shall maintain full, adequate and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the Department.

Section 10. KRS 37.170 is amended to read as follows:

(1) The governor is hereby authorized to enlist, organize, maintain, equip, discipline and pay when called into active field service a volunteer defense force other than the national guard, to be known as the Kentucky active militia, which shall consist of able-bodied *persons* [males] who are residents of the state of Kentucky and who are between the ages of eighteen (18) and sixty-four (64).

(2) Whenever the president of the United States shall call any part of the national guard of this state into active federal service, the governor is hereby authorized to organize the Kentucky active militia under such regulations as the secretary of defense may prescribe for discipline and training.

(3) The governor shall have the power to alter, divide, annex, disband or reorganize any organization of the Kentucky active militia whenever in his judgment the efficiency of the state forces will thereby be increased, and he shall have power to change the organization so as to conform to the regulations now or hereafter prescribed by the laws of the United States for the organization of the national guard or militia.

Section 11. KRS 68.090 is amended to read as follows:

(1) For county purposes the fiscal court of each county may levy a poll tax on each [male] resident of the county who is of the age of eighteen (18) years or over and is not exempt under KRS 142.020, and shall levy an ad valorem tax on all property subject to county taxation. This section does not authorize the fiscal court to levy a tax to pay any railroad bonded indebtedness or any interest thereon. The poll tax shall not exceed one dollar and fifty cents (\$1.50) on each person taxed, and the ad valorem tax shall not exceed fifty cents (50) on each one hundred dollars' (\$100) worth of property taxed.

(2) In any county which has under the law established itself as a tubercular district the fiscal court shall levy a tax sufficient to maintain a tubercular institution and provide for the salaries of the medical staff thereof and any other necessary expenses incident thereto taking into consideration any federal, state, or private financial assistance which may be given to the institution or which by law the institution is entitled to receive. The levy shall be an ad valorem tax on all property subject to county taxation and shall not exceed ten cents (10) on each one hundred dollars' (\$100) worth of property so taxed and the ten cents (10) shall be an additional tax to the fifty cents (50) ad valorem tax limitation hereinbefore provided for.

Section 12. KRS 70.580 is amended to read as follows:

As used in KRS 70.580 to 70.598, the following words and terms shall have the following meanings:

(1) "County" means a county maintaining an organized police force.

(2) "Employee" means any person employed by the fiscal court of the county in the police department, including those holding an administrative or directorial position in said department. In any county which shall have adopted a merit system for its police department under the provisions of chapter 78, Kentucky Revised Statutes, employee shall mean any person in the classified service of said police department having such merit system.

(3) "Patrolmen" are any persons who are employed as police officers by the county court in any county wherein the provisions of KRS 70.580 to 70.598 are effective.

(4) "Trustees" shall mean a board of pension fund trustees as established under the provisions of KRS 70.580 to 70.598.

(5) "Pension fund" shall mean the moneys derived from the police officers and employees affected by the provisions of KRS 70.580 to 70.598, together with funds appropriated by the fiscal court of any county adopting the provisions of KRS 70.580 to 70.598, and any other sums derived from whatever sources, by gift or otherwise, to be used for the retirement and payment of benefits of police officers or their dependents, to be paid to police officers and employees of the police department after the prescribed number of years of service and for the benefit of disabled patrolmen and for the benefit of their *surviving spouses* [widows] and dependent children in case of death of a police officer or employee within the scope of his employment.

Section 13. KRS 90.300 is amended to read as follows:

(1) In KRS 90.310 to 90.410, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department of municipal government. Provided That, in any city of the second class which has heretofore elected to operate under KRS 90.310 to 90.410, and in which any administrative or directorial position has not been included in the class of employees subject to civil service, any person holding such an administrative or directorial position, who is past the age of forty-five (45) years and who has filled such position for a period of not less than one (1) year next prior to December 31, 1945, may, if he elects, continue in said position without taking the competitive examination required by KRS 90.320.

(b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution.

(c) "Civil service" means the offices and positions of trust or employment in the service of the city not specifically excluded by KRS 90.310 to 90.410 or by ordinance of the city as provided in KRS 90.310.

(d) "Commission" means the board of civil service commissioners as established under KRS 90.310.

(e) "Dismissal" means the discharge of an employee.

(f) "Employee" means any person employed in the conduct of municipal affairs including an administrative or directorial position established for cities of the second or third class, but the term shall not include the mayor or city manager, and in cities of the second class it shall not include the offices of the board of health, members of the planning and zoning commission, the board of trustees of the public library, members of the housing authority, municipal hospital commission or the trustees, members or corresponding officers of similar boards or commissions of cities of the second class, persons employed on temporary and

special projects or to persons whose regular employments with the city are seasonal and are less than nine (9) months in any one (1) year, and the city clerk or city assessor of a city of the second class operating under the commission form of government.

(g) "Pension fund" means the moneys derived from the employees and the levy of a special tax, either or both, or any other sum derived from any other source, to be used for the retirement of employees after the prescribed years of service and for the benefit of disabled employees, and *surviving spouses* [widows] and dependent children in the case of death of an employee within the scope of his employment according to the terms of KRS 90.310 to 90.410 and the ordinance of the city.

(2) The provisions of KRS 90.310 to 90.410 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds, in cities of the second and third classes.

Section 14. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employees under civil service by the levy of a tax of not exceeding five cents or such rate as necessary to permit the city to match the employees' current contributions to the fund, on each one hundred dollars value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employees as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employees' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to *surviving spouses* [widows] and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every five years after an actuarial survey of the fund, and shall be in effect for a period of at least five years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employees or their dependents to a pension or other benefit, and may provide a monthly allowance for employees eligible for a pension.

(4) Temporary employees appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employees.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three places where city employees frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund and accepts from its employees a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employees, and the city and its employees shall continue to operate under KRS 90.310 to 90.410 and the adopting ordinance. A repeal of that ordinance by the city shall in no way affect such employees unless by the mutual consent of the city and an employee or employees.

Section 15. KRS 91.440 is amended to read as follows:

(1) Every fiduciary appointed under the laws of this state or by a deed or will recorded in any county clerk's office in this state who has the management of any lands or improvements in the city, every agent of a nonresident owner of property located in the city who collects the rent thereof, and every *person* [man] who collects the rent or income or enjoys by occupation the profits of lands or improvements owned by his *spouse* [wife] and located in the city, shall, before July 1 of each year, pay out of the net income of the lands and improvements the city tax assessed upon the same in the preceding year, with accrued interest, before applying the income to the wants of, or paying it over to, his beneficiary or employer. In default thereof, he shall be liable for the tax to the amount of the income that he might have so applied, which liability may be enforced by equitable proceedings in any court of competent jurisdiction. In such proceedings it shall not be an answer that the city has a security in its lien upon the lands and improvements and the right to sell same for taxes.

(2) Tax bills assessed against an administrator, executor or trustee shall be a charge upon and may be enforced against the whole succession of trust estates, in addition to other remedies provided for in this chapter.

Section 16. KRS 91.470 is amended to read as follows:

(1) Except as provided in KRS 91.550, the tax receiver shall, immediately upon the filing of the lists of unpaid tax bills, distrain the personal property owned or in the rightful possession of the taxpayer, notwithstanding the existence of any lien, except the lien for state taxes, upon the property, and may proceed to sell the title of the taxpayer in a sufficient amount of the property to pay the tax, penalties, interest and costs. When the tax bill is against a married *person* [woman], it may also be levied upon such personal property of *the spouse* [her husband], not exempt from levy under a like tax bill against himself, as is found on any of the lands or improvements for which the married *person* [woman] is assessed.

(2) Sales of personal property under such tax bills shall be for cash.

(3) In selling personal property, the levy, advertisements, sale and delivery shall be made in the same manner as in the sale of goods levied under execution on a replevin bond.

Section 17. KRS 92.280 is amended to read as follows:

(1) The legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may levy a poll tax not exceeding one dollar and fifty cents (\$1.50) on each [male] inhabitant of such city on the assessment date other than those exempted by KRS 142.020, such poll taxes to become due at the same time ad valorem taxes become due and to be collected in the same manner, and the legislative body of each city of the second to sixth class may also impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

Section 18. KRS 92.710 is amended to read as follows:

(1) The treasurer of each city of the second class shall, within ten (10) days after selling real property for taxes, make a written report thereof to the city auditor. The report shall show the time and place of the sale, the name of each delinquent, the years for which the sale was made, the number of each tax bill, the amount of taxes, interest, penalties and costs on each tax bill for each year, the name of the purchaser, the amount paid, and a brief description, by lot and block numbers as shown by the city maps or some other method sufficiently accurate to identify each parcel, of the property sold. The report shall be recorded in the auditor's office in an appropriate book provided for that purpose, with an alphabetical index of the names of delinquents whose property has been sold, and with appropriate columns and spaces opposite each name in which shall be entered a record of the sale and redemption of the property or of its conveyance to the purchaser in case it is not redeemed. The original report of the treasurer shall likewise be preserved. Upon the purchase of any real property by any person other than the city and the payment of the purchase price, the treasurer shall give the purchaser a certificate of purchase, which shall be in substance a copy of the treasurer's report as to the property bought. A duplicate of each such certificate shall be recorded in a book kept for that purpose as a public record in the auditor's office. In cases where the property is bought by the city, it shall not be necessary for the treasurer to issue a certificate of purchase, but the treasurer's report shall be deemed his certificate of any such purchase by the city.

(2) The collector of each city of the third class, after selling any real property for taxes, shall return upon the same paper upon which his levy is written a description of the property sold, the time and place of sale, a statement that he first advertised the sale according to law, the name of the purchaser and the amount paid by him for the property sold. The collector shall deliver the levy and return to the office of the city clerk, who shall record or bind it in a book kept for that purpose, and the original return of the collector shall also be filed and preserved in the office of the city clerk. The collector shall make all sales, returns and settlements before the end of the fiscal year. The collector shall give to the purchaser of any real property sold by him for taxes, except when the city is the purchaser, a certificate of purchase, containing a description of the land purchased, the time of sale, the quantity sold, the price, the amount of taxes sold for, and the year or years for which the taxes were owed. The certificate will be sufficiently descriptive if the property can be conveniently found from an inspection of the map of the city or, if the property is not properly described in the map, if the description is otherwise sufficient to enable the purchaser to find the property. All certificates of purchase shall be recorded or bound in a book kept for that purpose by the city clerk, as a public record. The collector's return of any sale of real property to the mayor for the use of the city shall be deemed his certificate of such purchase by the city.

(3) The collector or treasurer of each city of the fourth class, within twenty (20) days after selling any real property for taxes, shall report in writing to the county clerk of the county in which the city is located. The report shall show when the sale was made, the steps taken by the collector or treasurer prior to and at the sale, the name of the purchaser, the price, and a full description of the property. The county clerk shall record and index the report in the book in which he records the sheriff's report of tax sales. Such reports, when recorded, shall operate as conveyances to the purchasers, whether the city or private persons, and shall vest in the purchasers the title of the persons whose property was sold at the sale, except that of persons under legal disability, and shall be constructive notice as to the claim existing in favor of the purchaser against the real property of persons under no legal disability. The county clerk shall have a fee of fifty cents (50) for each

entry so made.

(4) The collector or treasurer of each city of the fourth class shall, within thirty (30) days after each sale of real property, issue to the purchaser a certificate of purchase, describing the property sold and stating the time of sale and the price. If the collector or treasurer fails to make the report of sale to the county clerk provided for in subsection (3) of this section, any purchaser may file with the county clerk the collector's or treasurer's certificate of purchase. The clerk shall then record and index the certificate of purchase in the book mentioned in subsection (3) of this section, and it shall have the same effect as the collector's or treasurer's report would have had if returned.

(5) Any purchaser, other than the city, of real property sold for taxes of a city of the fourth class shall forfeit his right to the purchase unless, within six (6) months after the collector or treasurer delivers to him the certificate of purchase, the purchaser gives written notice of his purchase as follows:

[(a) To the husband and the wife, if the property purchased belonged to a married woman.]

(a)[(b)] To the statutory guardian, parent or person in charge of an infant, in the order named, if the property belonged to an infant.

(b)[(c)] To the committee or the person in charge of *an incompetent person* [a lunatic], in the order named, if the property belonged to *an incompetent person* [a lunatic].

Section 19. KRS 92.730 is amended to read as follows:

(1) When real property has been sold for taxes of a city of the third class and purchased by the mayor for the benefit of the city, the owner of the property, or his heirs, representatives or assigns, may redeem the property at any time within two (2) years from the day of sale, by paying to the city the amount bid at the sale, with eight per cent (8%) per annum interest thereon from the day of sale.

(2) When real property has been sold for taxes of a city of the third class and purchased by someone other than the city, the owner of the property, or his heirs or personal representatives, may redeem the property at any time within one (1) year from day of sale, by paying or tendering to the purchaser or his representatives the full amount for which the property was sold, with twenty per cent (20%) per annum interest thereon from the day of sale. If the purchaser refuses to accept payment, or is a nonresident of the city, the owner may deposit the amount and interest with the city treasurer and take his receipt therefor, and shall at once file the receipt with the city clerk, which shall operate as a redemption of the property.

(3) If the owner of the property is a minor, [a married woman,] or *an incompetent person* [a person of unsound mind], and the property is not redeemed within two (2) years from the day of sale, by the owner or by someone for him, the purchaser, other than the city, may bring suit in equity in the circuit court of the county to have a sufficient amount of the property sold to pay the sum bid at the collector's sale, with interest at ten per cent (10%) per annum and costs of suit, and to pay any other taxes appearing to be due on the property at the time judgment is rendered. The plaintiff shall, before any judgment is rendered, give good security to the defendant, to be approved by the court, that he will pay all taxes for which the property is adjudged to be sold, and shall, before any deed to the property sold under the judgment is made, produce to the court and file in the action proper and legal receipts for such taxes. No such suit against a person under disability shall be brought after five (5) years from the day of the collector's sale.

Section 20. KRS 92.740 is amended to read as follows:

(1) When real property has been sold for taxes of a city of the fourth class, an owner not under disability, or his representatives, heirs or assigns, may redeem the property from the city or any other purchaser at any time within two (2) years from the day of sale, by paying the purchase money with interest at the rate of ten per cent (10%) per annum, the costs and a penalty of fifteen per cent (15%) upon the total amount of the purchase price. Any person under disability at the date of sale, except *an incompetent person* [a lunatic or married woman], shall have one (1) year after the removal of the disability, and any *incompetent person* [lunatic or married woman] shall have five (5) years from the receipt of the notice provided for in subsection (5) of KRS 92.710, in which to redeem his property on the same terms as other owners.

(2) If the property is redeemed from the city, the city clerk shall collect the amount of the tax, penalty and costs from the delinquent taxpayer, and give him a receipt therefor.

(3) When a redemption is made, the purchaser shall mark the word "redeemed" on the margin of the record book provided for in subsection (3) of KRS 92.710, in a space left for that purpose, with the date and his signature. The county clerk shall have a fee of twenty-five cents (25) for each redemption.

Section 21. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.150 to 95.290 and in KRS 95.786 to 95.885, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means the officers, firemen and clerical or maintenance employes, including the chief of the fire department.

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department.

(e) "Police department" means the officers, policemen and clerical or maintenance employes, including the chief of police.

(f) "Police force" means the officers and policemen of the police department, other than the chief of police.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Salary" means any compensation received for services.

(i) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS 95.430 to 95.690, the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means and includes all officers, firemen, and clerical or maintenance employes of the fire department.

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employes of the police department.

(e) "Member" means any and all officers, firemen, policemen, clerical or maintenance employes in the police or fire department, except that as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580 it shall not include the chief of police in a city of the second class operating under the commission form of government.

(f) "Police force" means and includes all officers and policemen in the police department.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Fireman" means a member of the fire department below the rank of officer, other than a clerical or maintenance employe.

(i) "Salary" means any compensation received for services.

(j) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled members of police and fire departments, and for the benefit of *surviving spouses* [widows] and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to 95.785 the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to 95.785, a "regular police department" is defined as one (1) having a fixed headquarters, where police equipment is maintained and where a policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties.

(b) "Regular fire department." For the purpose of KRS 95.761 to 95.785, a "regular fire department" is defined as one (1) having a fixed headquarters where fire fighting apparatus and equipment is maintained, and where a fireman or firemen are in constant and uninterrupted attendance to receive and answer fire alarms.

(c) "Legislative body." Wherever in KRS 95.761 to 95.785 the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government.

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to 95.785.

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to 95.785.

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and fireman or firemen's salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and fireman or firemen after the prescribed number of years of service and for the benefit of disabled policeman or policemen and fireman or firemen, and for the benefit of *surviving spouses* [widows] and dependent children or dependent fathers or mothers in the case of death of a policeman or fireman within

the scope of his employment, according to the terms of KRS 95.761 to 95.785.

Section 22. KRS 95.440 is amended to read as follows:

(1) The city legislative body in cities of the second and third classes shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications for office, including their knowledge of the English language and the law and rules governing the duties of the position applied for.

(2) Each member of the police or fire department in cities of the second and third classes shall be a qualified voter in the county containing the city of employment, able to read, write and understand the English language, and have such other qualifications as may be prescribed. No person shall be appointed a member of the police or fire department unless he is a *person* [man] of sobriety and integrity and is and has been an orderly, law-abiding citizen. In a city of the second class no person shall be appointed a member of either of such departments if he is over fifty (50) years of age.

(3) Members of the police and fire departments in cities of the second and third classes qualified under this section shall hold their positions during good behavior, except that the city legislative body may decrease the number of policemen or firemen as it may deem proper.

(4) If the city legislative body of a city of the second or third class decreases the number of policemen or firemen, the youngest members in point of service shall be the first to be released and returned to the eligible list of the department, there to advance according to the rules of the department.

Section 23. KRS 95.762 is amended to read as follows:

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or fireman, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firemen. Every member of the police or fire department shall be a qualified voter of the city in which appointed, and shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a *person* [man] of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or fireman and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds, or be unduly active in politics or work for the election of candidates for office.

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.785 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firemen, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firemen, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

Section 24. KRS 96.600 is amended to read as follows:

(1) When the board of any municipality authorized to acquire, construct, own or operate an electric plant under the provisions of KRS 96.550 to 96.900 shall be unable to contract with the owner of any land, easement, right of way, electric plant, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall file in the office of the clerk of the county court a particular description of the property sought to be condemned, and may apply to the county court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken; the value of real estate, tangible personal property, intangible property and franchises, if any such value is found to exist, shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the electric plant or system of the owner, considering the purposes for

which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, giving the name or names of the owners, and whether nonresidents of the state, infants, *or incompetent persons* [of unsound mind, or married women].

(3) Upon the application of said board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the county court, after the owners have been summoned ten (10) days, if the summons be served in the county, or if served outside the county twenty (20) days, or if the service is constructive thirty (30) days, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.

Section 25. KRS 102.020 is amended to read as follows:

(1) The articles of incorporation shall be as follows: "We, the undersigned business and professional persons [men] resident, or conducting a business, or having a branch office, in the city of, county of, Kentucky, adopt the following articles of incorporation:

"Article I. The objects of this corporation shall be to advance and improve civic welfare, and to advertise and develop the industries and resources of, Kentucky.

"Article II. The name of this corporation shall be Chamber of Commerce.

"Article III. The affairs of this corporation shall be conducted by a board of not less than six (6) directors, and such officers as may be established by the bylaws of the corporation.

"Article IV. The annual dues of the members of this corporation shall be not less than twelve dollars (\$12.00), payable as provided in the bylaws of the corporation.

"Article V. Any resident of the city or county, or any firm or individual operating a business or branch office therein, whose application meets with the approval of the board of directors, may become a member by paying the first dues, and thereafter complying with the articles of incorporation and bylaws.

"Article VI. This corporation shall continue until terminated by operation of law.

"Article VII. The board of directors shall adopt such bylaws as they deem necessary for the regulation of the affairs of this corporation."

(2) The articles of incorporation shall be recorded by the county clerk without fee.

Section 26. KRS 106.230 is amended to read as follows:

(1) When the board of any water district or municipality authorized to acquire, construct, own or operate a waterworks or water distribution system and appurtenances thereto, under the provisions of this chapter shall be unable to contract with the owner of any land, easements, rights of way, waterworks, water distribution systems and appurtenances thereto, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall file in the office of the clerk of the circuit court a particular description of the property sought to be condemned, and may apply to the circuit court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three (3) impartial housekeepers of the county who are landowners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

(2) It shall be the duty of said commissioners to ascertain and determine the value of the property taken, the value of real estate, tangible personal property, intangible property and franchises if any such value is found to exist shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the waterworks, water distribution system and appurtenances thereto of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, give the name or names of the owners, and whether nonresidents of the state, infants, *or incompetent persons* [of unsound mind, or married women].

(3) Upon the application of the said water district commissioners or the legislative body of the municipality herein referred to as the board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to nonresidents and persons under disability as are required by the Rules of Civil Procedure in actions against them in the circuit court.

(4) At the first regular term of the circuit court, after the owners shall have been summoned the length of time prescribed by the Rules of Civil Procedure before an answer is required in circuit court, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.

Section 27. KRS 140.030 is amended to read as follows:

(1) If it appears, either from the will of the decedent or from extrinsic evidence, that an obligation of a contractual nature exists in favor of any person payable at or after death of the decedent, the sum so payable shall be treated for the purposes of this chapter as a taxable transfer, unless it affirmatively appears by competent evidence that a consideration substantially equivalent in value to the amount due under the contract was paid or furnished by or for the other party thereto during the life of the decedent.

(2) The proceeds payable under any life insurance policy on the death of the assured (other than a United States government life insurance policy or national service life insurance policy issued by or through the federal government), payable to the assured or his estate, shall be taxable as a part of the legacy as a distributable share of the beneficiary. The proceeds of an insurance policy payable to a designated beneficiary, including a testamentary or inter vivos trustee, other than the assured or his estate, shall be tax-free. The proceeds payable under any United States government life insurance policy or national service life insurance policy issued by or through the federal government, whether payable to a designated beneficiary or to the assured or his estate, and any pension or annuity payments made or to be made to the *surviving spouse* [widow] of an employe of a railroad or other carrier under the federal railroad retirement act of 1935 as amended, shall be tax-free, and shall not be considered in determining the value of any taxable transfer.

Section 28. KRS 140.080 is amended to read as follows:

(1) There shall be free from any tax under the preceding provisions of this chapter the following inheritable interests:

(a) Wife, *husband*, infant child by blood or adoption, or a child by blood or a child adopted during infancy who has been declared incompetent by a court of competent jurisdiction, \$10,000;

(b) All other persons of Class A, under KRS 140.070, \$5,000;

(c) All persons of Class B, under KRS 140.070, \$1,000; and

(d) All persons of Class C, under KRS 140.070, \$500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

(3) The exemptions provided in this section shall be subtracted from the value of the respective distributive shares before the rates, provided in KRS 140.070, are applied thereto to determine the amount of tax due thereon.

Section 29. KRS 147.020 is amended to read as follows:

The members shall be appointed without reference to party affiliation. They shall be *persons* [men] of high standing and reputation, who have been experienced in some form of civic work, and by reason of that experience are known to be vitally interested in the progress of the commonwealth.

Section 30. KRS 150.061 is amended to read as follows:

(1) The commission shall appoint a commissioner of the department of fish and wildlife resources, who shall be a *person* [man] with knowledge of and experience in the requirements for the protection, conservation and restoration of the wildlife resources of the state. The commissioner shall serve for an indefinite term, subject to removal by the commission for the same cause and in the same manner in which the governor may remove a member of the commission.

(2) The commissioner shall receive such compensation as the commission may determine, and shall be reimbursed for all actual and necessary travel and other expenses incurred by him in the performance of his official duties.

(3) Before entering upon the duties of his office, the commissioner shall take and subscribe to the constitutional oath of office, and shall, in addition thereto, swear or affirm that he holds no other public office, nor any position upon or under any political committee or party. Upon appointment by the commission, the commissioner shall execute a bond of five thousand dollars (\$5,000) in favor of the department of fish and wildlife resources, the premium on said bond to be paid out of department funds.

(4) The commissioner shall have general supervision or control of all activities, functions and employes of the department of fish and wildlife resources. He shall at all times require a bond from each director, officer or employe in or attached to his department, the premium to be paid out of department funds. He shall enforce all provisions of the laws of the state relating to wild animals, birds, fish and amphibians, and shall exercise all powers necessarily incident thereto not specifically conferred on the commission. The commissioner shall make an annual report of all receipts and disbursements and file same with the secretary of state of the commonwealth of Kentucky.

Section 31. KRS 150.170 is amended to read as follows:

(1) Except as provided in subsections (2), (3), (4), (5), (6) and (7) of this section, and subject to regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to game and fish unless he holds the kind of license or permit, resident or nonresident, that authorizes such act. It is the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected

or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to such extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his *spouse* [wife,] or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season (except trapping) on said farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon said farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trail as authorized by the department may so attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three days may, in the county of his legal residence at the time of his entrance into the service, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry on his person proper identification and papers showing his furlough status.

(7) Resident landowners, their *spouses* [wives] or dependent children who kill or trap on their lands any wild animals or birds causing damage to such lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon said lands shall also have the same privilege. Upon destruction of any animal or bird by the above specified individuals, such act must be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(8) In the event a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and the similar authority of Missouri, Tennessee, Virginia and West Virginia, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states are permitted to perform the acts authorized by such license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky must purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 32. KRS 160.475 is amended to read as follows:

(1) The ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not less than twenty-five cents (25) annually on each one hundred dollars (\$100) of property subject to local taxation nor more than one dollar and fifty cents (\$1.50) annually on each one hundred dollars (\$100) of property subject to local taxation.

(2) The board of education of any district may request the levy of a poll tax, not exceeding two dollars (\$2.00) on each [male] inhabitant within the district over twenty-one (21) years of age who is not exempt by law from payment of poll tax.

(3) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

Section 33. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow, or a [dependent] widower, the benefit shall be one hundred and fifty dollars per month.

(2) Where there are surviving unmarried children under age eighteen or under age nineteen if a full-time student in high school, the benefit shall be one hundred and twenty-five dollars per month in the case of one such child, two hundred and twenty-five dollars per month in the case of two such children, two hundred and seventy-five dollars per month in the case of three such children, and three hundred dollars per month in the case of four or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3).

(3) Where the survivor is a child age eighteen or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death the benefit shall be one hundred and fifty dollars per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this subsection and subsection (2) shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five or over, the benefit shall be one hundred and fifty dollars per month for one parent or two hundred dollars per month for two parents.

Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred and twenty-five dollars per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen or upon age nineteen if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, dependent widower, dependent parent or dependent brother or sister or dependent child age eighteen or older shall terminate upon marriage, or upon termination of the condition creating the dependency. The benefit shall not be paid during the time the survivor, other than a child is receiving an annuity, pension or allowance in excess of three hundred dollars per month from a retirement or pension system in the State of Kentucky financed in whole or part by public contributions, excluding Old Age and Survivors Insurance.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470 (8). If the benefits paid or payable under subsections (1), (2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 34. KRS 164.360 is amended to read as follows:

(1) Each board of regents may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four (4) years. No person shall be employed who is related to any member of the board of regents as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law, *brother-in-law*, *son-in-law* or daughter-in-law, except that upon written recommendation of the president of the university or college, one (1) such relative of each member of the board of regents may be appointed upon confirmation by the other three (3) appointed members.

(3) Each board may remove the president of the university or college, and upon the recommendation of the president may remove any faculty member or employee, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairman of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Section 35. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license or any instruction permit shall not be granted unless the application is signed by a *parent* [the father of the applicant, if the father is living and has custody of the applicant, otherwise by the mother] or guardian having the custody of the minor. If the minor has no father, mother or guardian, an operator's license or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. Such a signature need not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) Any person who has signed the application of a minor for a license may file with the department a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The department upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

Section 36. KRS 197.140 is amended to read as follows:

No prisoner who is serving a sentence for rape, attempted rape, [detaining a woman against her will,] or who has escaped or attempted to escape from an adult correctional institution within the past five (5) years, or who has been convicted of armed robbery or armed assault with intent to rob where any injury has been inflicted upon any other person during the commission of the offense, shall be worked or released for work outside of the walls of the prison. No prisoner who has been sentenced to life imprisonment shall be worked or released for work outside of the walls of the prison until he has actually served within the walls of the prison for at least one (1) year of his sentence.

Section 37. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The natural living parents of a child under twenty-one (21), if the child is legitimate, and its mother *and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father*, if the child is born out of wedlock, provided that no natural parent need be made a party defendant in the event the parental rights of such parent have been terminated under KRS 199.600 to 199.630, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one;

(d) If the care, custody and control of the child has been transferred to the department, any other individual, institution or agency, then the department, such other individual, institution or agency shall be named a party defendant.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the department, individual, institution or agency has custody of such child, the service of process upon such child shall be had by serving a copy of the summons in such action upon the department, individual, institution or agency, any provision of CR 4.04 (3) to the contrary notwithstanding.

(3) If the child's natural living parents, if the child is legitimate, or [its mother] if the child is born out of wedlock, *its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father*, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

Section 38. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date and place of birth, place of residence and mailing address of each petitioner, and if married, the date and place of their marriage;

(b) The name, date and place of birth, place of residence and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it be known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known, provided the name of the natural father of a child born out of wedlock shall not be given *unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child*, or if certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the department, institution or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact herein required to be alleged is unknown to the petitioners, such lack of knowledge must be alleged.

(2) There shall be filed with the petition any sworn consent or consents to adoption and certified copies of any orders terminating parental rights.

Section 39. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a legitimate child or the mother of the child born out of wedlock, *or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child*, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged incompetent and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.600 to 199.630; or
 (c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.600 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (2) of KRS 199.600 exist with respect to such child.

Section 40. KRS 199.600 is amended to read as follows:

(1) In a proceeding involving a neglected or abandoned child, as defined in KRS 199.011, the circuit court may terminate all parental rights of the parents of such child, and declare the child to be a ward of the state, and may vest the care, custody and control of the child in the department, or in any licensed child-caring or child-placing agency or institution, if facilities are available to receive the child, if it is pleaded and proved in a private hearing that the parents have abandoned or deserted the child, or have substantially or continuously or repeatedly neglected the child or refused to give the child parental care and protection, or that the child is neglected and that the parents have been adjudged mentally incompetent and such judgment has been in effect for not less than one year.

(2) If the circumstances described in subsection (1) of this section exist with respect to only one of the two legitimate parents, the parental rights of that parent may be terminated, in which case the child shall not be declared to be a ward of the state, unless with the voluntary consent of the other parent, or if one of the two legitimate parents has willfully, substantially and continuously refused for a period of at least one year to give or pay any support, the parental rights of that parent may be terminated immediately by order of the court, in which case the child shall not be declared a ward of the state, unless with the voluntary consent of the other parent.

(3) In an action to terminate parental rights under this section the parents, if the child is legitimate, or [the mother] if the child is born out of wedlock, *the mother or the father if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child*, must be personally summoned; or where personal service cannot be made, must be constructively summoned as provided in the Rules of Civil Procedure.

(4) In the event the infant is made party defendant to the action, the boarding home or foster parent shall not be served with summons notwithstanding provisions of CR 4.04 (3).

(5) The court may be convened at any time wherever the judge thereof may be found within this district, irrespective of the regular term for the purpose of terminating parental rights under this section, and shall complete the same as soon as possible.

(6) Proceedings under this section may be instituted upon petition by the department, any probation officer, any state or local law enforcement officer, any county or Commonwealth's attorney or parent.

(7) In the event a parent who is a defendant in an action for involuntary termination of parental rights is for financial reasons unable to obtain legal representation, the court shall appoint an attorney for such person if defendant requests counsel. The court may appoint counsel for any defendant under this statute if in the opinion of the court justice will be served. Unless the attorney appointed receives a salary or fee from another source, he shall be paid a reasonable fee for his services which shall be taxed as costs not to exceed \$150.

Section 41. KRS 199.620 is amended to read as follows:

(1) The parents of any child, or the surviving parent where one (1) parent is deceased, or in the case of a child born out of wedlock, the mother, *and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, the father*, may present to the judge of any circuit court in this state, a written petition setting forth facts alleging that such parents, parent or mother, as the case may be, (a) is unable to provide proper parental care for such child, and (b) is willing to relinquish all parental rights to such child, and alleging that the department or a licensed child-caring or child-placing agency or institution which is authorized to place children for adoption, has the facilities to accept the care of the child or in the absence of such facilities, some suitable person is willing to accept the care of the child.

(2) The petition shall either be accompanied by a statement, signed and sworn to by an authorized representative of the department or the licensed agency or institution, that facilities exist to receive the care, custody and control of the child, or such facts shall be made known in the presence of the court by such a representative, or in the absence of such facilities, the signed statement of the individual willing to accept the care of the child.

(3) If it is proved to the satisfaction of the court that termination of parental rights and commitment to the department or licensed institution, agency or suitable person will be for the benefit of the child, the court

may order the child to be so committed and the parental rights of the natural parents terminated.

Section 42. KRS 201.080 is amended to read as follows:

The board may receive into and maintain in the home's care, *children* [any boys under seventeen (17) and girls] under eighteen (18) years of age who are residents of the county and who are:

- (1) [Children who are] D[d]uly committed to the home's care; and
- (2) Such other children of the county as the board, or the superintendent or such other officers or employes as may be designated by the superintendent, with the approval of the board, may, in the absence of any judicial or official commitment, find for the best interest of such children, to receive them into the home's care, on the voluntary application of the parents jointly, or the parent having custody, or the nearest living blood relative, or a legally appointed guardian.

Section 43. KRS 201.090 is amended to read as follows:

The board may file a petition and proceed as provided in KRS 201.100, whenever it has probable cause to believe that any *child* [boy under seventeen (17) or girl] under eighteen (18) years of age:

- (1) Is abandoned, neglected or cruelly treated by its parents;
- (2) Is habitually sent out or permitted to beg in public places or lives by begging;
- (3) Associates with persons who tend to corrupt and contaminate him or her;
- (4) Is known to be vicious or incorrigible; or
- (5) Has parents who are in constant habits of drunkenness or gross debauchery or who are living together in unlawful cohabitation.

Section 44. KRS 204.060 is amended to read as follows:

Every person going about begging, or staying in any street or other place to beg, shall, on the warrant of the county judge, be sent to and kept at the poorhouse. If such person is [a male, and] able to work, he may be proceeded against under the vagrant laws.

Section 45. KRS 204.070 is amended to read as follows:

No county poor farm, poorhouse, or any home or institution providing primarily for poor or infirm persons, shall receive or permit to remain in its shelter a feeble-minded *person* [female] under forty-five (45) years of age if there is room in the institution for the feeble-minded [for her,] in which case *said person* [she] must be transferred to the feeble-minded institute.

Section 46. KRS 206.020 is amended to read as follows:

- (1) Any confederate veteran who has been an actual bona fide resident of this state since January 1, 1915, shall be paid fifty dollars (\$50.00) per month upon proving that he:
 - (a) Did actual military service in the confederate army from the date of his enlistment to the close of the war, or until he was honorably discharged from the military forces of the confederate states;
 - (b) Was prevented from serving until the close of the war or until he was honorably discharged by reason of wounds or disease contracted in line of duty, which rendered him unable to perform further military service; or
 - (c) Deserted or was discharged, but re-enlisted or returned to service in the confederate army, and served until the close of the war or until he was honorably discharged or prevented from serving by wounds or disease contracted in line of duty disabling him from further military service.
- (2) The *surviving spouse* [widow] of any such confederate veteran who would have been entitled to the pension, and which *surviving spouse* [widow] was living with him as his legal *spouse* [wife] at the time of his death, has not remarried since his death, and who has been an actual bona fide resident of the state since January 1, 1915, shall be paid out of the state treasury fifty dollars (\$50.00) per month.
- (3) Payments under this section shall be made upon proof of the facts according to forms and regulations prescribed by the department of finance.

Section 47. KRS 206.030 is amended to read as follows:

No person shall be entitled to the benefits of this chapter who:

- (1) Is able to earn a support by manual labor or by reason of his knowledge, art or skill in any profession, trade or craft;
- (2) Removes from this state or is absent therefrom for a period of three (3) months;
- (3) Possesses property of the value of \$2,500;
- (4) Possesses an income to the amount of or equivalent to \$300 a year; or who is living with his *spouse* [wife] who possesses property in fee simple or a life interest of the value of \$2,500, or an income of \$300 per year;
- (5) Is suitably provided with support by reason of a contract or agreement with a person able to provide such support; or
- (6) By reason of combined partial ability to earn a support and income and property, or any and all of these combined is able to obtain an income equivalent to \$300 a year. Provided, however, That no pension received from the United States or any state or foreign government or any other source shall be figured in the computation of income under this chapter.

Section 48. KRS 206.050 is amended to read as follows:

The department shall furnish blank applications for pensions to any confederate soldier, or *surviving spouse* [widow] of confederate soldier, or attorney for such soldier or *surviving spouse* [wife], of this state who requests such blanks.

Section 49. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the county court of each county shall have exclusive jurisdiction in proceedings concerning any child, living, or found, within the county and has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, needy or abandoned.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of this case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons who, and no person shall:

(a) Knowingly encourage, aid, cause or in any manner contribute to the conditions which cause, or to cause a child who has not reached his eighteenth birthday to become delinquent, neglected, dependent, needy or charged with a crime.

(b) Wilfully fail to do any act that will directly tend to prevent a child who has not reached his eighteenth birthday becoming delinquent, neglected, dependent, needy, abandoned or charged with a crime.

(4) The court shall have exclusive jurisdiction of persons who and no person shall wilfully and unnecessarily expose to the inclemency of the weather, or in any other manner wilfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

[(b) If the child is a female, in peddling or in any wandering occupation;]

(b)/[(c)] In any indecent or immoral occupation or practice;

(c)/[(d)] In the exhibition of any such child when insane, or idiotic; or

(d)/[(e)] In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

Section 50. KRS 220.270 is amended to read as follows:

The board of directors may devise, prepare for, execute, maintain and operate any or all works, or improvements necessary or desirable to complete, maintain, operate and protect the works provided for by the official plan. They may secure and use *persons* [men] and equipment under the supervision of the chief engineer or other agents, or they may let contracts for such works, either as a whole or in part.

Section 51. KRS 227.460 is amended to read as follows:

(1) KRS 227.450 to 227.500 apply to cities of the second and third classes, and counties containing those cities.

(2) KRS 227.450 to 227.500 shall not apply to rural electric cooperatives, to factory maintenance *employees* [men] or any employees of the utility companies, railroads or municipalities in pursuit of their respective employer's business.

Section 52. KRS 246.150 is amended to read as follows:

(1) The commissioner may appoint a clerk and stenographers of the board subject to the approval of the board.

(2) The clerk shall be an able, well-qualified *person* [man] and shall give his entire time to the service of the state. He may act as an assistant commissioner or as an instructor at the county institutes, or perform other duties assigned him by the commissioner, but shall receive no additional compensation as assistant commissioner or instructor at the county institutes, except reimbursement for actual expenses.

Section 53. KRS 266.040 is amended to read as follows:

The commissioners shall:

(1) Proceed at the time set in the order, with a surveyor who is a civil engineer, to view out and make an accurate survey of the line of the proposed levee from its starting point to its terminus, marking and platting its route by courses and distances, and ascertain the amount of land required to erect the levee at the various points along its line, not exceeding one thousand (1,000) feet in width at any point.

(2) Ascertain the names and residences of the owners and tenants of the land, and those who are infants, or *incompetent persons* [of unsound mind or married women].

(3) Assess a just compensation to each owner and tenant for the land required and sought to be appropriated for the establishment of the levee, and the damages to the residue of the tracts beyond the consequential benefits which will be derived to such residue from the levee. If a person has only an estate for life or years in the land and the remainder in fee belongs to another, the commissioners shall apportion the damages between them.

(4) Make a signed written report to the court, setting forth the information obtained under subsections (1), (2) and (3) of this section, with a map or diagram of the proposed route of the levee, and stating whether or not the proposed levee will be conducive to the public health, convenience or welfare, or whether it will be of public benefit or utility. If the commissioners find that the proposed levee is not of public benefit or utility, their report need only state that finding.

Section 54. KRS 266.120 is amended to read as follows:

(1) The board of levee commissioners shall superintend the construction, care and protection of the levee, and see that convenient crossings of the levee are made at the intersection of all public roads and at such private crossings as the commissioners may establish.

(2) At any time the commissioners deem the levee in danger of being damaged, after being built, by wind or high water, they shall, after giving six (6) hours' notice to all [male] persons between the ages of eighteen (18) and fifty (50) residing within the territory protected by the levee, require them to assemble at a point designated by the commissioners, and aid in the repair and protection of the levee, for which they shall be paid by the commissioners at the rate of one dollar and fifty cents (\$1.50) per day.

(3) No person liable to work under this section shall fail to do so after being notified.

Section 55. KRS 267.240 is amended to read as follows:

(1) Upon final reference to it by the court of any drainage proceedings, the board shall give notice by publication pursuant to KRS chapter 424 in the county in which the improvement is located, of the time and place of letting the work of construction and of the approximate amount of work to be done and the time fixed for its completion. On the date appointed for the letting the board, together with the chief engineer, shall convene and let the work to the lowest responsible bidder, either as a whole or in sections, as they may deem most advantageous for the district. No bid shall be entertained that exceeds the estimated cost unless for good reasons it is shown that the original estimate was erroneous. The board may reject all bids and advertise again, if it believes it will be in the interest of the district to do so. The board may employ *persons* [men] and teams and lease, rent, hire or purchase machinery and equipment, and directly construct the improvement according to the plans and specifications, without letting a contract. The board may exercise the same power in cleaning out, straightening and reconstructing old public ditches, but the expense in any case shall not exceed the estimate of the drainage engineer for the work.

(2) If the board accepts a bid, the successful bidder shall be required to enter into a contract with the board and to execute a bond for the faithful performance of such contract, with sufficient sureties, in favor of the board for the use and benefit of the district, in an amount equal to fifty per cent (50%) of the estimated cost of the work awarded to him. The board may maintain action for breach of the contract against any contractor and the sureties on his bond, and in case of breach of the contract the work may be advertised and relet in the same manner as the original letting.

Section 56. KRS 267.390 is amended to read as follows:

(1) Except as otherwise provided in this chapter, all improvements made under this chapter, as well as all public ditches or drains established or constructed under pre-existing laws, shall be under the control and supervision of the board having jurisdiction of the proceedings for the establishment and construction thereof. The board shall keep all such improvements open, free from obstruction and in good repair. For that purpose the board may employ *persons* [men] and teams, and lease, rent, hire or purchase machinery.

(2) For the purpose of providing funds to pay the compensation of the employees of the board, outside of that portion to be paid out of the original assessment on any district, and for the purpose of paying the expense of repairing, keeping open and looking after the various improvements under the charge of the board, the land in each district established under this chapter, as well as the land assessed for each public ditch or system of drainage established under pre-existing laws, shall be assessed in proportion to the original assessment made against the land for the original improvement, except that where a district has been established diverting the course of water, the board may, in order to relieve land taxed and from which water has been diverted, use funds of the district in maintaining the original watercourse.

(3) (a) Except as provided in paragraph (b) of this subsection, no assessment in any one (1) year for the purposes prescribed in subsection (2) of this section shall exceed ten per cent (10%) of the original assessment against the land, and no more than one (1) assessment shall be made in any one (1) year.

(b) In counties having seventy-five (75) or more separate drainage districts or in counties availing themselves of the provisions of this subsection as provided in KRS 267.495, when a petition signed by a majority of the landowners in any drainage district is filed with and approved by the drainage commissioner, the latter may levy a maintenance assessment not exceeding thirty per cent (30%) of the original assessment against the land. The number of assessments which may be levied shall be limited as follows: Where the assessment is ten per cent (10%) but not over fifteen per cent (15%) no more than one assessment may be levied during any eighteen (18) month period; where the assessment is sixteen per cent (16%) but not over twenty per cent (20%) no more than one assessment may be levied during any two (2) year period; where the assessment is twenty-one per cent (21%) but not over twenty-five per cent (25%) no more than one assessment may be levied during any two-and-one-half (2 1/2) year period; and where the assessment is thirty per cent (30%) but not less than twenty-six per cent (26%) no more than one assessment may be levied during any three (3) year period.

(c) No assessment shall be made until the board has prepared an assessment roll, in duplicate, stating the name of the owners of the land to be affected, and the amount proposed to be assessed against each tract of land. Both the assessment roll and the duplicate shall be signed by the president and secretary of the board. The original shall be kept on file in the office of the board and the duplicate shall be filed with the collector of the assessment. These additional assessments shall have the same effect as original assessments and be collected in the same manner. They shall be kept separate and deposited with the treasurer, who shall keep the accounts for each district separate. Each warrant drawn shall specify out of which account it shall be paid.

(4) The board may compromise and settle, upon such terms and conditions as it deems proper, any maintenance assessment made, levied or assessed prior to February 17, 1936, and may do everything necessary to release and discharge any claim, demand or lien upon land established, made or claimed prior to February 17, 1936, under or by reason of any such maintenance assessment.

Section 57. KRS 276.240 is amended to read as follows:

(1) Except as provided in subsection (4) of KRS 276.060, no common carrier of passengers, within the meaning of *YSM* 197 of the constitution, or any officer or agent of such carrier, shall give passenger transportation within this state without charge, or for any consideration other than money paid in the usual way at the same charge open to all who desire to purchase, or at a reduced charge not common to the public, or issue any ticket, pass, permit or contract therefor, to any person except the following:

(a) Officers, bona fide employees, agents, attorneys, physicians and surgeons of such carrier, and of any other common carrier of passengers with which such carrier has an agreement for interchange of free transportation for such persons, including furloughed, pensioned and superannuated employees, and persons who have become disabled or infirm in the service of the carrier;

(b) Dependent members of the immediate families of the persons mentioned in paragraph (a) including the family of those persons killed while in the service of the carrier, and the widows *and* widowers, during widowhood *and* widowerhood, and minor children of those persons who died while in the service of the carrier;

(c) Ministers of religion and persons engaged exclusively in charitable and eleemosynary work;

(d) Traveling secretaries of Young Men's *and* Young Women's Christian Associations;

(e) Officers and inmates of homes for the rescue and reform of the unfortunate or vicious, including persons about to enter such institutions and persons returning home after discharge;

(f) Indigent, destitute and homeless persons, and, when transported by charitable societies or hospitals, the necessary agents employed in such transportation;

- (g) Inmates of federal or state homes for soldiers and sailors;
- (h) Persons injured in wrecks or accidents and physicians and nurses attending such persons;
- (i) Witnesses attending any legal investigation or proceeding in which the common carrier is interested;
- (j) Necessary caretakers of livestock, poultry, milk or fruit, to the point of destination and returning to the forwarding point;
- (k) Employees of sleeping cars and express cars, and linemen of telegraph and telephone companies;
- (l) Railway mail service employees, post office inspectors, custom inspectors and immigration inspectors;
- (m) Newsboys on trains and baggage agents;
- (n) Policemen and firemen of any city, wearing the insignia of their office, for transportation within the limits of such city;
- (o) School children going to and returning from public or parochial schools;
- (p) Students going to or returning from the state university or any state teachers' college;
- (q) Regularly employed common school and high school inspectors;
- (r) All persons traveling upon a special train or car provided by the common carrier for educational, health or agricultural purposes, or any car for the distribution of fish or game;
- (s) Employees of the department of fish and wildlife resources, while engaged in the distribution of fish or game;
- (t) Officers or regular accredited representatives of labor organizations composed wholly of employees of common carriers of passengers.

(2) This section does not prevent the bona fide exchange of transportation for advertising matter actually contracted for.

(3) No person, other than those mentioned in subsection (4) of KRS 276.060 and in paragraphs (a) to (t) of subsection (1) of this section, shall accept, use or attempt to use any transportation or evidence of right to transportation given or issued in violation of subsection (1) of this section.

Section 58. KRS 276.260 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no express company or carrier of property by water shall give transportation of property within this state to any person free or at reduced rates not common to the public.

(2) Nothing in this chapter shall prevent any express company or carrier of property by water from handling property free or at reduced rates for the United States, or for this state or any county or city of this state; or for charitable purposes; or to and from fairs or expositions for exhibition thereat; or for the exclusive use or consumption of its officers, agents, employees, attorneys, physicians or surgeons and their families; nor shall anything in this chapter prevent the exchange of passes or franks with any telegraph company or telephone company or with any other common carrier so that by the exchange all such companies may give to the officers, agents, employees, attorneys, physicians, surgeons and their families of the other companies the same privileges given to their own officers, agents, employees, attorneys, physicians, surgeons and their families. The term "employees" as used in this subsection includes furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of the company, the remains of persons killed in the employment of the company, and persons traveling for the purpose of entering the service of the company. The term "families" as used in this subsection includes the families of persons killed in the employment of the company, and the widows *and* widowers, during widowhood *and* widowerhood, and the minor children of persons who have died while in the service of the company.

Section 59. KRS 289.381 is amended to read as follows:

An association and any federal savings and loan association may issue savings accounts to any [married woman or] minor as the sole and absolute owner of such savings account, and receive payments thereon by or for such owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to such accounts on the order of such [married woman or] minor. Any payment or delivery of rights [to a married woman or] by a minor who holds a savings account, shall be a valid and sufficient release and discharge of such institution for any payment so made or delivery of rights to such [married woman or] minor. [In the case of a minor,] T[t]he receipt, acquittance, pledge or other action required by the institution to be taken by the minor shall be binding upon such minor with like effect as if he were of full age and legal capacity. The parent or guardian of such minor shall not in his capacity as parent or guardian have the power to attach or in any manner to transfer any savings account issued to or in the name of such minor, provided, however, that in the event of the death of such minor the receipt or acquittance of either parent or of a person standing in loco parentis to such minor shall be a valid and sufficient discharge of such institution for any sum or sums not exceeding in the aggregate \$1,000 unless the minor shall have given written notice to the institution not to accept the signature of such parent or person.

Section 60. KRS 304.9-150 is amended to read as follows:

(1) Application for an agent, solicitor, or consultant license shall be made to the commissioner by the applicant, and be signed and sworn to by the applicant before a notary public or other person authorized by

law to take acknowledgments of deeds.

(2) The form of application shall require full answers to such questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's or consultant's license the application shall state the kinds of insurance proposed to be transacted, and if an agent's, be accompanied by written appointment of the applicant as agent for such kinds of insurance, by an authorized insurer, subject to issuance of the license.

(4) If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.

(5) If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all members, officers and directors, and shall designate each individual who is to exercise the license powers; and each such individual shall furnish information with respect to himself, as part of the application, as though for an individual license.

(6) If for license as agent, or solicitor, or consultant, the application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended, revoked or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant to be indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof; and, if applicant is a married *person* [woman], like information with respect to *the spouse* [her husband].

(7) As part of such application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience or instruction as to the kinds of insurance to be transacted, trustworthiness and reputation.

(8) All such applications shall be accompanied by the applicable license fee, appointment fee, and examination fee, in the respective amounts stated in KRS 304.4-010.

(9) No applicant for license under this subtitle shall wilfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 61. KRS 336.050 is amended to read as follows:

The commissioner in person or by representative shall:

(1) Investigate and ascertain the wages of all *persons* [women and minors] employed in this state.

(2) Enter the place of business or employment of any employer [of women or minors] to examine and inspect all books, registers, payrolls, and other records that have a bearing upon the question of wages of *employees* [women or minors], and to ascertain whether the orders of the commissioner are complied with; and

(3) Require from the employer a full and correct statement in writing when the commissioner or his representative considers it necessary, of the wages paid to all *persons* [women and minors] in his employment.

(4) Upon complaint, prosecute any violation of any of the provisions of any law which it is his duty to administer or enforce.

Section 62. KRS 342.075 is amended to read as follows:

(1) The following persons shall be presumed to be wholly dependent upon a deceased employee:

(a) A *surviving spouse* [wife] upon a *decendent* [husband] whom *the surviving spouse* [she] had not voluntarily abandoned at the time of the accident, or who having been abandoned by *the decedent* [her husband] has not engaged in such conduct since his abandonment as would at common law constitute grounds justifying the abandonment of such wife by her husband *or such husband by his wife*;

[(b) A husband incapacitated from wage earning, upon a wife whom he has not voluntarily abandoned at the time of the accident to the wife; and]

(b)/[(c)] A child or children under the age of sixteen (16) years, or over sixteen (16) years if incapacitated from wage earning, upon the parent with whom such child or children are living, or by whom actually supported, or from whom support is legally required by judgment of a court, at the time of the accident.

(2) In all other cases the relation of dependency in whole or in part shall be determined in accordance with the facts of each case existing at the time of the accident.

(3) No person shall be considered a dependent in any degree unless he is living in the household of the employee at the time of the accident, or unless such person bears to the employee the relation of father, mother, husband, or wife, father-in-law or mother-in-law, grandfather or grandmother, child or grandchild, or brother or sister of the whole or half blood.

Section 63. KRS 342.130 is amended to read as follows:

Compensation under this chapter to alien dependent widows, *widowers* and children, not residents of the United States, shall be one-half (1/2) of the amount provided in each case for residents. The employer may at any time commute all future instalments of compensation to alien dependents the then value thereof. Alien [widowers,] parents, brothers and sisters not residents of the United States, shall not be entitled to any

compensation.

Section 64. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to such one or more dependents of the deceased employee for the benefit of all the dependents entitled thereto, as are determined by the board. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of an insane person shall be paid to his committee.

(2) If the dependents are a widow, *widower* or other head of a family of minor children and one or more minor children, it shall be sufficient for the widow, *widower* or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the committee, guardian or next friend of such dependents.

Section 65. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employee as follows, subject to the maximum and minimum limits specified in KRS 342.740:

(a) For total disability, 55 per cent of his average weekly wage during such disability, and two and one-half per cent of his average weekly wage for each dependent up to a maximum of three.

(b) In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employee, or employee disabled by an occupational disease, compensation shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employee and age at the time of injury or at the time the disability from an occupational disease began. The compensation paid therefor shall be 55 per cent of the average weekly earnings of the employee at the time of his injury and two and one-half per cent of his average weekly wage at the time of injury for each dependent up to a maximum of three, subject to the limitations contained in KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease; provided, however, the individual entitled to benefits under permanent partial disability shall be entitled to compensation based on lost wages or body functional disability benefits, whichever is greater.

(c) For total permanent bodily loss or losses herein scheduled, after and in addition to the income benefits payable during the period of recovery, scheduled income benefits in the amount of 55 per cent of the average weekly wage as follows: **BODILY LOSS**

	WEEKS OF DISABILITY
1. Arm	340
2. Leg	340
3. Hand	312
4. Foot	216
5. Thumb	86
6. Index Finger	54
7. Middle Finger	43
8. Ring Finger	22
9. Little Finger	16
10. Great Toe	30
11. Second Toe	20
12. Third Toe	15
13. Fourth Toe	8
14. Fifth Toe	5
15. Total loss of binaural hearing	156
16. Total loss of vision of one eye	150
17. Total loss of bilateral vision	520
18. Total loss, or total loss of use, of both hands, both arms, both feet or both legs	520
19. Phalanges: For loss of distal phalanx, one-half of the income benefits for loss of the entire digit.	
For loss of more than the distal phalanx of a digit, the same as loss of the entire digit.	

20. Two or more digits: For loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot, scheduled income benefits may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the scheduled income benefits for loss of a hand or foot.

21. Total loss of use: Scheduled income benefits for permanent total loss of use of a member shall be the same as for loss of the member.

22. Partial loss or partial loss of use: Scheduled income benefits for permanent partial loss of use of a member shall be for a period proportionate to the period benefits are payable for total loss or total loss of use of the member as such partial loss bears to total loss.

23. Loss of hearing or partial loss of bilateral vision: Scheduled income benefits for partial loss of vision in one or both eyes, or total loss of hearing in one ear, or partial loss of hearing in one or both ears shall

be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss. The provisions of paragraphs (d) to (h) of subsection (2) of this section shall apply to scheduled losses of hearing.

24. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in subparagraphs 1. to 23. of this subsection, scheduled income benefits shall be for the loss of use of each such member or part thereof, with the periods of benefits to run consecutively.

25. Other losses: Proper and equitable scheduled income benefits shall be paid for serious permanent disfigurement of face, head, neck or other area normally exposed and for loss or loss of function of a major member or organ when such disfigurement or loss is of a kind likely to handicap the employee in securing or holding employment.

26. In any case of total or partial loss of use of a member or organ, of hearing or vision, or in any case of disfigurement, determination of the period for which scheduled income benefits are payable shall not be made until the maximum of healing and of restoration function has been attained.

27. If the effects of any of the injuries, or disabilities, from occupational diseases, or losses, mentioned in this section adversely affect a workman's ability to labor, or limit his occupational opportunities to obtain the kind of work he is customarily able to do; his compensation benefits shall not be limited to the amounts provided by this section, and he shall be awarded compensation benefits under some other applicable or appropriate section of this chapter which would provide more compensation benefits for his disability.

(2) Occupational deafness means permanent partial or permanent total loss of hearing of one or both ears caused by prolonged exposure to harmful noise in employment. The following provisions shall apply exclusively to loss of hearing compensable under this subsection:

(a) No claim for scheduled income benefits shall be heard until the lapse of six full consecutive calendar months after the termination of exposure to harmful noise in employment. The time limitation for the filing of claims for occupational deafness shall not begin to run earlier than the day following the termination date of such six months' period. The time for filing claim as provided under this paragraph shall be applicable not only in respect of the last employer, but also in respect of any prior employer who may have liability to pay compensation for the occupational deafness.

(b) No employer shall be liable for the payment of scheduled income benefits for occupational deafness unless the employee claiming benefits shall have worked for such employer in employment exposing the employee to harmful noise for a total period of at least 90 days.

(c) An employer, otherwise liable under this subsection, whose employment has contributed to any extent to an employee's occupational deafness shall be liable for the full extent of the deafness of the employee, unless such employer shall establish by competent evidence (including the results of a professionally controlled hearing test) the extent of the employee's deafness as it existed prior to exposure to harmful noise in the employer's employment. Upon such showing the employer shall be liable to the employee only for the proportion of the deafness attributable to employment by him. An employer liable to the employee for the full extent of the employee's occupational deafness may implead, in a compensation proceeding on the employee's claim, any prior employer or employers in whose employment the employee had been exposed to harmful noise, and if it should be found that the impleaded employer would have been liable to the employee under this subsection, had the employee proceeded against him, under the claim being adjudicated, the employer held liable shall be entitled to an award against the impleaded employer. The impleading of an employer shall be accomplished by notice on a form prescribed by the board. Such notice shall be sent to the impleaded employer and to the board. An award may be made in favor of the employer liable to the employee, and against the impleaded employer or employers, which award may be enforced in the same manner as awards to employees. The impleaded employer or employers shall bear equal shares with the employer of the employer's liability to the employee, unless the evidence warrants a different apportionment.

(d) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000, and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second are not to be considered as constituting disability for hearing.

(e) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, and 2,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 15 decibels or less in the three frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 82 decibels or more in the three frequencies, then the same shall constitute and be a total or 100 percent compensable hearing loss.

(f) In measuring hearing impairment, the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 15 decibels an allowance of one and one-half percent shall be made up to the maximum of 100 percent which is reached at 82 decibels.

(g) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six. The final percentage shall represent the binaural hearing impairment.

(h) Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employee's age over 40 at the time of last exposure to industrial noise.

(i) No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

(3) The period of any scheduled income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if scheduled income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the scheduled income benefits payable on account of the subsequent disability in whole or in part would duplicate the scheduled income benefits payable on account of the pre-existing disability.

(4) When an employee, who has sustained disability compensable under this section, and who has filed a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or [wholly actually dependent] widower, if there is no child under the age of 18 or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

Section 66. KRS 351.060 is amended to read as follows:

(1) The commissioner of the department of mines and minerals shall be a [male] citizen of Kentucky with at least fifteen (15) years mining experience, ten (10) years of which shall have been in and about the mines of this state. He shall be thoroughly familiar with all methods of safety pertaining to the operation of mines.

(2) The commissioner shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines.

(b) The nature, chemistry and properties of noxious, poisonous and explosive gases, the dangers due to such gases and the prevention of such dangers.

(c) The dangers incident to blasting and the prevention of such dangers.

(d) The methods for the management and extinguishment of mine fires.

(e) The methods for rescue and relief work in mine disasters.

(f) The application of electricity in mining operations.

(g) The application of mechanical loading in mining operations.

(h) The equipment and explosives manufactured for use in coal mines.

(i) The mechanical features of mine scales and the methods used in properly inspecting and testing such scales.

(j) The methods used in locating oil and gas wells when drilled through any coal seam.

(k) The proper manner of drilling and plugging oil and gas wells.

(l) Mining engineering.

(m) The methods for the prevention of explosions in mines due to gas or dust.

(3) The commissioner shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal seam.

Section 67. KRS 351.120 is amended to read as follows:

(1) The Board of Examiners shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, mine safety instructor, assistant mine foreman, mine foreman or fire boss, who has passed the examination given by direction of the board for that position and meets the requirements of subsection (6) of this section.

(2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the members of the Board of Examiners, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, mine safety instructor,

assistant mine foreman, mine foreman or fire boss, and is authorized to act as such.

(3) Certificates issued to mine foremen, assistant mine foremen, and fire bosses shall be classified as follows:

(a) Mine Foreman certificates, authorizing the holder to act as foreman for all classes of coal or clay mines;

(b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman. Upon the completion of five years' mining experience evidenced by acceptable affidavits, the holder may apply to the board for a mine foreman's certificate;

(c) Fire boss certificates, authorizing the holder to act as fire boss or mine examiner in any mine.

(4) Any mine foreman or assistant mine foreman may act as fire boss or mine examiner, and any regularly employed fire boss may act in an emergency as a mine foreman or assistant mine foreman. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.

(5) The class of mine foreman's certificate awarded shall be determined by the Board of Examiners according to the experience of the applicant.

(6) No certificate shall be granted to any person who does not present to the Board of Examiners satisfactory evidence, in the form of affidavits made by well known and responsible persons in the locality from which he came, that the applicant is a *person* [man] of sobriety and good moral character, and that he has had the required practical experience in coal or clay mines, or to any person who is not either a bona fide resident of this state or employed at a mine in this state. A degree in Mining Engineering from a recognized institution of learning may be taken as the equivalent of two years of mining experience. A minimum of five years' underground experience is required of applicants for mine foreman certificates and a minimum of three years' underground experience is required of applicants for assistant mine foremen and fire boss certificates.

(7) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman or fire boss prior to June 16, 1972, are not affected by this section.

(8) When approved by the department, any person holding a mine foreman's certificate issued by any other state may act in the capacity of mine foreman in any mine in this state until the next regular mine foreman's examination held by the department, but not to exceed a maximum of ninety days.

Section 68. KRS 362.180 is amended to read as follows:

In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by KRS 362.225 persons who are not partners as to each other are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) As a debt by installments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a widow, or *widower* or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good-will of a business or other property by installments or otherwise.

Section 69. KRS 362.270 is amended to read as follows:

(1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of KRS 362.150 to 362.360 and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, *widowers*, heirs, or next of kin.

Section 70. KRS 381.135 is amended to read as follows:

(1) A person desiring a division of land held jointly with others, or an allotment of dower *or curtesy*, may file in the circuit court or county court of the county in which the land or the greater part thereof lies a petition containing a description of the land, a statement of the names of those having an interest in it, and the amount of such interest, with a prayer for the division or allotment; and, thereupon, all persons interested in the property who have not united in the petition shall be summoned to answer on the first day of the next term of the court. The written evidences of the title to the land, or copies thereof, if there be any, must be filed with the petition.

(2) The statutory guardian of an infant, *or* committee of an *incompetent person* [a person of unsound mind, and husband of a married woman, may file or unite in the petition, in the names of, and in conjunction with such infant, *or incompetent person* [of unsound mind, or married woman]; and, if the petition be against an infant, *incompetent person* [of unsound mind, or married woman], the guardian, *or* committee [or husband] may appear and defend for them; if they fail to do so, the court shall appoint a discreet person for that purpose.

(3) Upon such a petition by all interested in the property; or upon the service of a summons on all who have an interest in the property and have not united in the petition, ten days before the commencement of the term, the court may order the division, or allotment of dower *or curtesy*, according to the rights of the parties.

(4) The court shall appoint three competent persons to make the partition, or allotment of dower *or curtesy*, or both, having a due regard to the rights of all parties interested. Before proceeding to act, the commissioners shall take an oath to discharge their duty impartially.

(5) The order of appointment shall fix a time and place for the meeting of the commissioners; who shall meet accordingly; but, if prevented from meeting at the time and place so fixed, they may meet as soon thereafter as convenient, and may adjourn to such other time and place as they may agree upon, until their duty shall be performed.

(6) They shall survey and allot to the parties their respective interests in the land, and make report thereof to the court; which may either confirm, set aside or remand the report to the commissioners for correction.

(7) If the report be confirmed, a commissioner to be appointed for the purpose shall, by deed, convey to each party the land allotted to him.

(8) Said report and deed shall be recorded in the clerk's office of the county court, in proper books to be kept for that purpose; and, if the report be confirmed by the circuit court, it and the deed shall be certified by the clerk of that court to the clerk of the county court, for record.

(9) Two of the commissioners may act, if one refuse or fail to do so.

(10) A party summoned may, by answer, controvert the allegations of the petition or contest the rights claimed therein; and, thereupon, the case shall be tried and decided as an ordinary action, but without the intervention of a jury.

(11) If the action be pending in the county court when such answer is filed, it may be removed, on motion of either party, to the circuit court for trial; and the clerk shall, thereupon, deliver the papers pertaining to the case to the clerk of the circuit court.

(12) An appeal may be taken to the Court of Appeals from a final judgment, whether rendered by the circuit court or county court.

(13) The costs of the action shall be apportioned among the parties in the ratio of their interests, except that the costs arising from a contest of fact or law shall be adjudged against the unsuccessful party.

(14) No verification of the pleadings shall be required.

(15) The commissioners shall be paid a reasonable compensation, to be taxed as costs.

(16) This section does not affect the jurisdiction of courts of equity to make partition or allot dower *or curtesy*.

Section 71. KRS 381.180 is amended to read as follows:

(1) Estates of every kind held or possessed in trust are subject to the debts and charges of the beneficiaries thereof the same as if the beneficiaries also owned the similar legal interest in the property, unless the trust is a spendthrift trust.

(2) As used herein, unless the context otherwise requires, "spendthrift trust" means a trust in which by the terms of the instrument creating it a valid restraint on the voluntary and involuntary alienation of the interest of a beneficiary is imposed.

(3) No specific language is necessary to create a spendthrift trust and it is sufficient if the instrument creating the trust manifests an intention to create a spendthrift trust.

(4) If an instrument creating a trust provides that a beneficiary is entitled to receive income of the trust and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to income due and to

accrue is valid.

(5) If an instrument creating a trust provides that a beneficiary is entitled to receive principal of the trust at a future time and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to principal is valid.

(6) Although a trust is a spendthrift trust, the interest of the beneficiary shall be subject to the satisfaction of an enforceable claim against the beneficiary:

(a) by the *spouse* [wife] or child of the beneficiary for support, or by the *spouse* [wife] for *maintenance* [alimony];

(b) for necessary services rendered to the beneficiary or necessary supplies furnished to him; and

(c) by the United States or the Commonwealth of Kentucky for taxes due from him on account of his interest in the trust or the income therefrom.

(7) If a person creates for his own benefit a trust with a provision restraining the voluntary or involuntary alienation of his interest, his interest nevertheless shall be subject to alienation by operation of law or legal process.

Section 72. KRS 381.310 is amended to read as follows:

Any *person* [woman] whose *spouse* [husband] is a citizen of the United States, and any person whose father or mother, at the time of his birth, was a citizen thereof, although born out of the United States, may take and hold real or personal estate by devise, purchase, descent, or distribution.

Section 73. KRS 387.290 is amended to read as follows:

(1) The county court of the county from which the convict was sent to the penitentiary, or of the county of his residence if he had one in this state, may, upon the application of anyone interested, appoint a suitable curator of the estate of any person over the age of twenty-one years confined in the penitentiary.

(2) If the convict has a *spouse* [wife] the county court shall appoint *the spouse* [her] curator if *the spouse* [she] can give satisfactory security, and if not, then the person *the spouse* [she] selects in person or by written direction to the court.

(3) The curator shall execute a bond similar to that required of curators in a case of contest concerning a will. He shall be clothed with like powers, have like privileges, discharge like duties, and be liable to like responsibilities as are provided in the case of the curator of an estate pending a contest concerning a will, except that he shall, out of the effects held by him for the support of the family and the education of the minor children of the convict. He shall expend in these respects the sum authorized by the county court, and he shall account with the convict when he is discharged from the penitentiary.

Section 74. KRS 388.320 is amended to read as follows:

A guardian or committee shall not apply any portion of the estate of his ward for the support and maintenance of any person other than said ward, his minor children and his *spouse* [wife] (if *the spouse* [she] and the ward be living together) except upon petition to and prior order of the court after a hearing, notice of which has been given the proper office of the Veterans Administration in the manner and within the time provided in KRS 388.280.

Section 75. KRS 389.020 is amended to read as follows:

(1) A vested estate in real property jointly owned by two or more persons, or owned as set out in paragraph (c) of this subsection and subsection (3) of this section, may be sold by order of a court of equity in an action brought by either of them, though the plaintiff or defendant be of unsound mind or an infant:

(a) If the share of each owner be worth less than one hundred dollars;

(b) If the estate be in possession and the property cannot be divided without materially impairing its value, or the value of the plaintiff's interest therein;

(c) If the estate shall have passed by devise or descent to the widow *or* *widower* and heir or heirs of the decedent, and the widow *or* *widower* shall have a life right in a portion thereof, either as homestead or dower or by devise and the property cannot be divided without materially impairing its value or the value of the plaintiff's interest therein.

(2) If any real property held by a widow *or* *widower* and heirs of a deceased person as provided in paragraph (c) of subsection (1) of this section, has heretofore been sold by decree of a court of equity and said sale has been confirmed and a deed made by orders of such court, and possession of said property has been taken under said sale and deed, the purchaser thereof or said widow, *or* *widower* or heir may file a petition in equity in the court in which said land was sold asking the confirmation of said sale, and making all other persons interested in said property parties thereto; and said court on the hearing thereof shall have the power to confirm said former sale, if it shall appear that no party under disability was prejudiced thereby.

(3) If the estate shall have passed by devise to one or more persons for life, with directions that at the termination of such life estate the property is to be sold and the proceeds distributed to remainderman or remaindermen in fee, a court of equity in an action brought by either the holder or holders of the particular estate or the distributee or distributees of the remainder interest may sell such property for a division and distribution of the proceeds, if it shall appear that such sale and distribution would be beneficial to all

interested parties.

Section 76. KRS 389.045 is amended to read as follows:

- (1) The court shall appoint a suitable person, as commissioner, to execute its judgment.
- (2) The court shall cause the title of the property to be conveyed by a commissioner to the purchaser, without warranty.
- (3) The conveyance must be acknowledged before and approved by the court, and be certified by its clerk to the clerk of the county court for record.
- (4) In the actions for investment authorized by KRS 389.010 the court shall order the proceeds of sales to be invested, subject to its approval, in real estate in or out of this state, or in bonds of the United States or of this state, or in the stock of a bank of this state, subject to the same uses, trusts and limitations as the estate sold was subject to.
- (5) If the owner of real estate which may have been sold under the provisions of this chapter die during infancy; or being *incompetent* [of unsound mind], die intestate; [or, being an adult married woman, die without having received the proceeds of sale upon her written request,] and upon privy examination as is authorized by this chapter, or without disposing in the manner authorized by law of the property in which the proceeds may have been invested, the person who would have been entitled to the property, if it had not been sold, shall be entitled to the proceeds, or to the property in which they have been invested.
- (6) All persons interested in the property must be made parties; and, if objection to the sale be made by a defendant having a joint interest, his share shall not be sold, but the property may be divided, and a sale of the shares of those desiring it may be ordered, if such division and sale can be made without materially impairing the value of the property or of the plaintiff's interest therein.
- (7) If a deed or will give to a trustee a discretionary power to sell the property, the court shall not have power to order a sale of it without the consent of the trustee.

Section 77. KRS 389.050 is amended to read as follows:

If a *person* [woman] have a vested or contingent right to dower or *curtesy* in land ordered to be sold pursuant to the provisions of this chapter, *he* [she] shall be made a party to the action brought to sell such land, and if *he* [she] make no defense thereto the court shall order the land sold free from *his* [her] right: If *he* [she] make defense thereto the court may order the land sold subject to *his* [her] right or may order a sale of same free from *his* [her] right, and if the court order same sold free from *his* [her] right it shall provide for a reasonable compensation to *him* [her] out of the proceeds of said sale; or that *he* [she] shall have the same right in property purchased with the proceeds as *he* [she] had in the property sold.

Section 78. KRS 391.140 is amended to read as follows:

(1) Any real or personal property or money, given or devised by a parent or grandparent to a descendant, shall be charged to the descendant or those claiming through him in the division and distribution of the undivided estate of the parent or grandparent. The person to whom the property or money was given or devised shall receive nothing further from the estate until the shares of the other descendants are made proportionately equal with his, according to his descendable and distributable share of the whole estate, real and personal, devised and undevise. The advancement shall be estimated according to the value of the property when given. The maintaining or educating or the giving of money, to a child or grandchild, without any view to a portion or settlement in life, shall not be deemed an advancement.

(2) Advancements made to distributees shall not be taken as a part of the decedent's personal estate in estimating the distributable share of the widow or *widower* in the estate.

Section 79. KRS 392.030 is amended to read as follows:

If the *deceased spouse* [husband], during the coverture, was seized in law of the fee simple of any real estate, then the *surviving spouse* [wife, if she survives him,] may have dower or *curtesy* in that real estate, although the *deceased spouse* [husband] never had actual possession.

Section 80. KRS 392.040 is amended to read as follows:

(1) The *surviving spouse* [wife] shall not have dower or *curtesy* in land sold but not conveyed by the *deceased spouse* [husband] before marriage, nor in land sold in good faith after marriage to satisfy an encumbrance created before marriage or created by deed in which the *surviving spouse* [she] joined, or to satisfy a lien for the purchase money. If, however, there is a surplus of the land or proceeds of sale after satisfying the lien, *surviving spouse* [she] may have dower or *curtesy* out of that surplus of the land or compensation out of the surplus of the proceeds, unless they were received or disposed of by the *decedent* [husband] in his lifetime.

(2) If the *decedent* [husband] held land by executory contract only, the *surviving spouse* [wife] shall not have dower or *curtesy* in the land, unless *decedent* [he] owned such an equitable right at the time of his death.

Section 81. KRS 392.050 is amended to read as follows:

The *surviving spouse* [widow] shall be entitled, from the time of the *deceased spouse's* [husband's] death until dower or *curtesy* is assigned, to such share of the rents and profits of the *deceased spouse's* [her husband's] dowerable real estate as is equal to the *surviving spouse's* [her] share in the real estate itself, under KRS 392.020, and the *surviving spouse* [she] shall hold the dwelling house, yard, garden, the stable and lot on

which it stands, and an orchard, if there is one, adjoining any of the premises aforesaid, until dower or *curtesy* is assigned [her], or, in case of renunciation, under KRS 392.080.

Section 82. KRS 392.070 is amended to read as follows:

When a *surviving spouse* [widow] recovers dower or *curtesy* against the heir or devisee or purchaser from the *decedent* [husband], the dower or *curtesy* shall be according to the value of the estate when received by the heir, devisee or purchaser, and shall not include, in the estimated value, any permanent improvements which the heir, devisee or purchaser has made on the land. Against the heir or devisee or his alienee the *surviving spouse's* [widow's] claim for rent shall not exceed rent for five years before the action, and against a purchaser from the *decedent the surviving spouse's* [husband her] claim shall be only from the commencement of the action. In either case it shall continue up to final recovery. If, after action has been brought, the *surviving spouse* [widow] or tenant dies before recovery, the rent may be recovered by the *surviving spouse's* [widow's] representative or against the tenant's heirs, devisees and representatives.

Section 83. KRS 392.100 is amended to read as follows:

If a *person violates* [the violator of] KRS 436.080 [is a man], *the person's* [his] first *spouse* [wife] shall, on his conviction, be endowed of one-third part of his real estate for life and an absolute interest in one-third part of his other estate, to be allotted and recovered as dower or *curtesy* in other cases. A [If the] violator of KRS 436.080 [is a woman, she] shall forfeit her claim to dower or *his claim to curtesy in their* [her] first *spouse's* [husband's] estate.

Section 84. KRS 392.110 is amended to read as follows:

(1) The *surviving spouse* [wife] shall not be barred of dower or *curtesy* by reason of any judgment rendered by default or collusion against the *decedent* [husband], if *the surviving spouse* [she] would be entitled to dower or *curtesy* had there been no such judgment.

(2) No heir shall be bound by any collusive or ex parte assignment of dower or *curtesy* to the *surviving spouse* [wife], except so far as *the surviving spouse* [she] shows *himself* [herself] to have been justly entitled to the dower or *curtesy*.

Section 85. KRS 392.120 is amended to read as follows:

(1) A conveyance or devise of real or personal estate, by way of jointure, may bar the *surviving spouse's* [wife's] interest in the property and estate of the *deceased spouse* [her husband]. If, however, the jointure is made before marriage without *the surviving spouse's* [her] consent, or during *the surviving spouse's* [her] infancy *the surviving spouse* [she] may, within twelve months after *decedent's* [her husband's] death, waive the jointure by written relinquishment, acknowledged or proved before, and left with, the clerk of the county court, and have [her] dower, *curtesy*, or share of the [his] estate as provided by KRS 392.020. When *the surviving spouse* [she] so demands and receives [her] dower, *curtesy* or such share of *decedent's* [his] estate, the estate conveyed or devised in lieu of [her] dower or *curtesy* shall determine and revert to the heirs or representatives of the grantor or devisor.

(2) Where the *surviving spouse* [wife] is lawfully deprived of [her] jointure, or any part of [her] jointure, and not through any act of the *surviving spouse's* [her] own, *the surviving spouse* [she] shall have indemnity for [her] jointure out of *decedent's* [her husband's] estate.

Section 86. KRS 392.130 is amended to read as follows:

The *spouse* [wife] of an infant *spouse* [husband], or of a *spouse* [husband] judicially declared *incompetent* [of unsound mind], if *the spouse not under disability* [she] is of the age of *eighteen* [twenty-one] years, or if not, with the approval of the circuit court, on such terms as it may deem equitable, may unite with his guardian or committee, or with the commissioner of the court, in the conveyance of *the* [his] real estate of *the spouse under disability*, so as to release *the* [her] inchoate right of dower or *curtesy of the spouse not under disability*, when a sale and conveyance of the real estate are ordered to be made by the guardian or committee, or by the commissioner or other officer of the court. An infant *spouse* [wife] may also be permitted by the circuit court to unite with *his* [her] adult *spouse* [husband] in the conveyance of *the adult spouse's* [his] real estate without terms, or on such terms as may be deemed equitable, so as to release *the* [her] inchoate right of dower or *curtesy of the infant spouse*. If, in judicial proceedings to sell the real estate of an infant *spouse* [husband], or of a *spouse* [husband] judicially declared *incompetent* [of unsound mind], his *spouse* [wife] is made a party defendant, and by [her] answer, and on privy examination in open court or by a judge of a court in which such proceedings are pending, or by a commissioner appointed by the court to take the case, *the spouse not under disability* [she] consents to a sale of the property, free from *the* [her] inchoate right of dower or *curtesy of the spouse not under disability*, either without terms or on terms designated by *the spouse not under disability* [her], the court may, if it deems the terms of such consent equitable, order the sale of such property, free from *the* [her] inchoate right of dower or *curtesy*, upon the terms of consent proposed by *that spouse* [the wife].

Section 87. KRS 392.140 is amended to read as follows:

Whenever a married *person* [woman] has become a confirmed *incompetent person* [lunatic], the circuit court of the county in which is situated land belonging to the *spouse* [husband] of such *incompetent person* [married woman] may, upon the petition of *the spouse of the incompetent person* [her husband], adjudge the

sale and conveyance, or the mortgage, of the inchoate right of dower or curtesy of the person under disability [married woman]. The incompetent person [wife] and his [her] committee, if he [she] has one, shall be made defendants to the action; if he [she] has no committee, the court shall appoint an attorney to defend for him [her], to whom the court shall make a reasonable allowance to be paid by the spouse of the incompetent person [husband]. A description of the land shall be given in the petition and the [husband's] evidence of title of the spouse of the incompetent person filed therewith. If the court is satisfied by the proof that the incompetent spouse [wife] is a confirmed incompetent person [lunatic], it may adjudge the sale and conveyance, or mortgage, of her inchoate right of dower or his inchoate right to curtesy in said land, and if the incompetent spouse [she] has a committee, the court may direct that he unite with the spouse of the incompetent person [husband] in the deed or mortgage; if the incompetent spouse [she] has no committee, the court shall appoint a commissioner who shall unite with the spouse of the incompetent person [husband] in the deed or mortgage. Before any judgment pursuant to this section shall be rendered, the spouse of the incompetent person [husband], with at least two good sureties, shall execute before the court a covenant to the Commonwealth for the benefit of the incompetent spouse [wife], to be approved by the court, that the incompetent spouse [she] will be paid the value of his [her] right of dower or curtesy in the land should such right thereafter become complete.

Section 88. KRS 394.030 is amended to read as follows:

No person under eighteen years of age can make any will, except in pursuance of a power specially given to that effect, and except also, that a parent [father], though under eighteen years of age, may by will appoint a guardian for his child.

Section 89. KRS 394.480 is amended to read as follows:

(1) When a widower's curtesy or widow's dower is taken, or the survivor's [her] portion is made up, in whole or in part, from the estate devised to a devisee, such devisee shall have contribution on the principles of KRS 394.420 to 394.490 unless the will otherwise directs, or it is necessarily to be inferred therefrom that the testator intended the same to fall on such devisee.

(2) When a widower or widow loses his [her] jointure by a defect of title, or renounces it in legal manner, and his [her] dower, curtesy or portion is assigned [her] or made up in whole or in part from the estate devised to a devisee, that devisee shall have contribution on the principles of KRS 394.420 to 394.490.

Section 90. KRS 401.010 is amended to read as follows:

(1) Any person at least eighteen years of age[, who is not a married woman,] may have his name changed by the county court of the county in which he resides. If he resides on a United States army post, military reservation or fort his name may be changed by the county court of any county adjacent thereto.

(2) In every proceeding under this section and under KRS 401.020, the court shall be allowed a fee of five dollars.

Section 91. KRS 401.020 is amended to read as follows:

A parent [The father, or if he is dead or has abandoned his child who is under the age of eighteen, the mother and guardian], or if no parent [mother] is living, the guardian [alone], may have the name of a child under the age of eighteen changed by the county court of the county in which the child resides. If the child resides on a United States army post, military reservation or fort his name may be changed by the county court of any county adjacent thereto.

Section 92. KRS 402.020 is amended to read as follows:

Marriage is prohibited and void:

(1) With an idiot or lunatic;

[(2) Between a white person and a Negro or mulatto;]

(2)/[(3)] Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3)/[(4)] When not solemnized or contracted in the presence of an authorized person or society;

(4)/[(5)] When at the time of marriage, the person [male] is under eighteen [or the female under sixteen] years of age, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a county judge for permission to marry, which application may be granted, in the discretion of the county judge. The court shall be allowed a fee of five dollars for hearing each such application.

Section 93. KRS 402.030 is amended to read as follows:

Courts having general equity jurisdiction may declare void any marriage obtained by force or fraud or, at the instance of any next friend, may declare any marriage void where the person [male] was under eighteen [or the female under sixteen] years of age at the time of the marriage, and the marriage was without the consent of the father, mother, guardian or other person lawfully having charge of his or her person and has not been ratified by cohabitation after that age.

Section 94. KRS 402.060 is amended to read as follows:

No minister or priest shall solemnize marriage until he has obtained a license therefor from the county court of the county in which he resides, upon satisfying the court that he is a person [man] of good moral

character and in regular communion with his religious society, and upon giving covenant to the Commonwealth, with good surety, not to violate the law of this state concerning marriage. Any such license may be annulled by any county court, after notice to the person holding the license.

Section 95. KRS 402.210 is amended to read as follows:

If either of the parties is under eighteen years of age and not before married, no license shall issue without the consent of *a parent* [his or her father] or guardian, [or if there is none or he is absent from the state, without the consent of his or her mother,] personally given or certified in writing to the clerk over the signature of the father, guardian or mother, attested by two subscribing witnesses and proved by the oath of one of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage.

Section 96. KRS 402.260 is amended to read as follows:

If any *person* [female] under *eighteen* [sixteen] years of age marries without the consent of *the parent* [her father] or guardian, [or of her mother if there is no father or guardian or he is absent from the state,] the court having general equity jurisdiction in the county of *his* [her] residence shall, on the petition of a next friend, commit *his* [her] estate to a receiver, who, upon giving bond, shall hold *his* [her] estate and, after deducting a reasonable compensation for his services, pay out the rents and profits to *his* [her] separate use during *his* [her] infancy, under the direction of the court. When the *person* [wife] arrives at the age of eighteen the receiver shall deliver *his* [her] estate to *him* [her], unless the court considers it for *his* [her] benefit to continue it in the hands of the receiver.

Section 97. KRS 403.090 is amended to read as follows:

(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the circuit court of the county has but one judge, the appointment shall be made by the judge. If the court has two or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. He shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

(2) It shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the circuit court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court, and he shall see that the payments are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the circuit court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile court as reimbursement for the expenses incurred by the juvenile court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. He shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(3) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable him to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody and maintenance of the children. He shall make a report to the trial judge, at a time fixed by the judge, setting forth his recommendations as to the care, custody and maintenance of the children. He may request the court to postpone the final submission of any case to give him a reasonable time in which to complete his investigation.

(4) The friend of the court shall have authority to secure the issuance by the court of any order, rule or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing his duties under subsection (3) of this section he shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses; in the case of depositions taken on interrogatories, he may file cross interrogatories. He shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when he deems it necessary for the protection of the minor children, or when he may be directed by the court to attend.

(5) The friend of the court shall not directly or indirectly represent any party to a divorce action except as he is herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a *spouse* [mother] and *an* [her] infant child or children, he may proceed to enforce the payment of the allowance made to the *spouse* [mother] also.

(6) The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for his necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the judge or judges appointing him.

Section 98. KRS 404.010 is amended to read as follows:

(1) Marriage shall give to the *spouse* [husband], during the life of the *other spouse* [wife], no estate or interest in the *spouse's* [wife's] property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage relation *each spouse* [the wife] shall hold and own all *his* [her] estate to *his* [her] separate and exclusive use, and free from the debts, liabilities or control of the *spouse* [her husband].

(2) A married *person* [woman] shall never be the joint maker of a note *on which the married person's real property may become liable* or a surety on any bond or obligation of another, other than the *spouse*, *on which the married person's real property may become liable* [her husband], without the joinder of the *spouse* [her husband with her] in making such contract unless the *married person's* [her] separate estate has been set apart for that purpose by mortgage or other conveyance. But a married *person's* [woman's] estate shall be liable for [her] debts and responsibilities contracted before marriage, and for such contracted after marriage, except as provided in this chapter and in KRS Chapter 392.

Section 99. KRS 404.020 is amended to read as follows:

(1) A married *person* [woman] may acquire and hold property, real and personal, by gift, devise or descent, or by purchase, and may, in *his* [her] own name, as if *he* [she] were unmarried, sell and dispose of *his* [her] personal property. *He* [She] may make contracts, and sue and be sued, as a single *person* [woman], but a married *person* may not make any executory contract to sell or convey or mortgage [her] real estate, unless the *spouse* [her husband] joins in the contract. *He* [She] may rent out [her] real estate, and collect, receive and recover in *his* [her] own name the rents thereof, and make contracts for the improvement thereof.

(2) A gift, transfer or assignment of personal property between husband and wife shall not be valid as to third persons, unless it is in writing, and acknowledged and recorded as chattel mortgages are required to be acknowledged and recorded; but the recording of any such writing shall not make valid any such gift, transfer or assignment that is fraudulent or voidable as to creditors or purchasers.

Section 100. KRS 404.030 is amended to read as follows:

(1) A married *person* [woman] may sell, convey or encumber any of *his* [her] lands and chattels real, but such sale, conveyance or incumbrance shall not bar the *spouse's* [husband's] right to *dower or curtesy* unless he joins in the instrument of sale, conveyance or encumbrance or leases his right to *dower or curtesy* by separate instrument.

(2) Any married *person* [woman] may convey by agent any interest *he* [she] has in real or personal property situated in this state if *he* [she] could lawfully convey it in person. The conveyance shall be made by virtue of a power of attorney, executed and acknowledged or proven as deeds by married *persons* [women] are required to be.

Section 101. KRS 404.040 is amended to read as follows:

The *spouse* [husband] shall not be liable for any debt or responsibility of the *other spouse* [wife] contracted or incurred before or after marriage, except to the amount or value of the property received from or by *him* [her] by virtue of the marriage; but the *spouse who is the chief wage earner of a household* [he] shall be liable for necessities furnished to the *dependent spouse* [her] after marriage.

Section 102. KRS 404.050 is amended to read as follows:

When a *spouse* [husband] has been adjudged an *incompetent person* [a lunatic] by a court of competent jurisdiction, the *other spouse* [wife], by judgment of a court of equity, may be empowered to sell and convey by *his* [her] own deed, or to mortgage by appropriate instrument, any of *his* [her] real estate freed as to it and its proceeds from any claim of the *other spouse* [her husband].

Section 103. KRS 404.060 is amended to read as follows:

(1) A married *person* [woman] may sue, and be sued, as a single *person* [woman].

(2) A married *person* [She] may defend an action against *himself* [her] and *his spouse* [her husband] for *himself* [herself], and for the *spouse* [him] also if he fail to defend.

(3) If one *spouse* [a husband] deserts the *other* [his wife], the *other spouse* [she] may bring or defend for the *deserter* [him] any action which the *deserter* [he] might bring or defend, and shall have the powers and rights with reference thereto which the *deserter* [he] would have had but for such desertion.

(4) If a [female] party to an action *marries* [marry], the *spouse* [her husband] may be made a party by a motion, causing the fact to be stated upon the record; and the action shall not be delayed by reason of the marriage.

(5) But if a *spouse* [wife] be an *incompetent person* [of unsound mind], or imprisoned, the actions mentioned in subsections (1), (2) and (3), of this section must be prosecuted or defended by *the incompetent person's* [her] committee or curator, if *he* [she] *has* [have] one, and if *he* [she] *has* [have] none, must be prosecuted by *his* [her] next friend, or defended by *his* [her] guardian ad litem.

Section 104. KRS 405.020 is amended to read as follows:

(1) The father and mother shall have the joint custody, nurture and education of their children who are under the age of eighteen. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture and education of the children who are under the age of eighteen. The *parent who is the chief wage earner of a household* [father] shall be primarily liable for the nurture and education of his children who are under the age of eighteen.

(2) The father and mother shall have the joint custody, care and support of their children who have reached the age of eighteen and who are wholly dependent because of permanent physical or mental disability. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care and support of such children. The *parent who is the chief wage earner of a household* [father] shall be primarily liable for the custody, care and support of wholly dependent children who have reached the age of eighteen.

Section 105. KRS 405.060 is amended to read as follows:

Any sale or conveyance made to a purchaser with notice or for the benefit of any religious society, if made in fraud or hindrance of the right of *spouse* [wife] or child to maintenance, shall be void as against the *spouse* [wife] or child.

Section 106. KRS 405.070 is amended to read as follows:

When a *parent of* [father, widow or unmarried woman having] a child joins any religious society whose faith is similar to that of the Shakers without having made adequate provision for his children, the circuit court of the county where he resides, or of the county in which any part of his property is situated, if he does not reside in this state, may, upon petition of any next friend, appoint a committee to any infant child, or child of unsound mind, of the father or mother, and make out of the father's or mother's estate a provision for the maintenance of the child, and take the child from the father, mother or society, and provide for its custody.

Section 107. KRS 411.150 is amended to read as follows:

The *surviving spouse* [widow] and child, under the age of eighteen or either of them, of a person killed by the careless, wanton or malicious use of a deadly weapon, not in self-defense, may have an action against the person who committed the killing and all others aiding or promoting, or any one or more of them. In such actions the jury may give vindictive damages.

Section 108. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of *her husband*, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice.

(f) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(g) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(h) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(i) An action for the recovery of stolen property, by the owner thereof, against the thief or any accessory.

(2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five years from the date on which the alleged negligent act or omission is said to have occurred.

(3) In respect to the action referred to in paragraph (g) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

Section 109. KRS 423.080 is amended to read as follows:

Any commissioner of deeds appointed and qualified pursuant to KRS 423.070 may take the acknowledgment of proof of any instrument of writing, except wills, which instrument is required by the laws of this state to be recorded[, and may examine and take the acknowledgment of married women to any such instrument]. The examination, acknowledgment or proof of any such instrument taken by a commissioner, and certified under his official seal, in the manner required by the laws of this state, shall authorize the instrument to be recorded in the proper office. A commissioner of deeds may administer any oath or take any affirmation necessary to discharge his official duties, and may take and certify depositions to be read on the trial of any action or proceeding in any of the courts of this state.

[RECOGNITION OF ACKNOWLEDGMENTS=

Section 110. KRS 427.100 is amended to read as follows:

No mortgage, release or waiver of an exemption granted by KRS 427.060 shall be valid unless it is in writing, subscribed by the defendant and his *spouse* [wife], and acknowledged and recorded in the same manner as conveyances of real estate. The exemption in favor of an execution debtor or one against whom judgment has been rendered shall continue after the debtor's death for the benefit of his *surviving spouse* [widow] and children, but shall be estimated in allotting dower or *curtesy*.

Section 111. KRS 441.150 is amended to read as follows:

The county judge may appoint a manager for each crew of prisoners, who shall also act as a guard, and the county judge may appoint such additional guards as may be necessary, except that no crew shall consist of less than three prisoners and not more than one *person* [man] shall be paid to guard and manage less than ten prisoners. The managers and guards shall give bond, in a sum to be fixed by the county judge, for the faithful performance of their duties, and shall take an oath to faithfully perform their duties. They shall serve during the pleasure of the county judge. They shall be peace officers with power to make arrests. They shall be paid not less than ten cents nor more than twenty-five cents per hour while on duty, the amount to be paid to be fixed in the order of appointment. The manager of each crew shall see that the prisoners are comfortably fed and lodged, and have proper attention when sick, and that they work and conduct themselves according to prescribed regulations. The manager shall receive and safely keep all prisoners committed to his custody. He shall report to the county court in regard to such matters as the court directs, and he and the guards shall in all respects obey such orders as the county court makes respecting their duties.

Section 112. KRS 441.170 is amended to read as follows:

An officer arresting a [male] person upon a *capias pro fine* or similar writ, which fine and costs may be worked out at hard labor if not satisfied, may deliver the prisoner to a manager of a workhouse or manager of a work crew, and the manager shall receive the prisoner in the manner that jailers are authorized to do.

Section 113. KRS 454.110 is amended to read as follows:

An infant[, other than a married woman,] may, within twelve months after attaining the age of *eighteen* [twenty-one] years, show cause against a judgment, unless it be for a tort done by, or for necessities furnished to, the infant; or unless it be rendered upon a set-off or counterclaim stated in an answer; but the vacation of such judgment shall not affect the title of a bona fide purchaser under it.

Section 114. KRS 244.100, 244.320, 304.14-340, 337.365, 337.370, 337.380, 337.390, 337.400, 337.410, 337.990(8), 337.991, 339.410, 411.030, and 411.040 are repealed.

The Committee Amendment to **HB 368** is as follows:

Amend printed copy of House Bill 368 on page 2, line 6, by striking "*dependent*" and by adding "*totally or partially dependent on*" after "*parent*" and by striking the bracket after "*mother*" and by adding a bracket after "*of*";

and on line 13, by adding an underscored period after "*preference*" and by adding a bracket before "*provided*";

and on line 20, by adding a bracket after "*widowed*";

and on page 49, line 19, by placing brackets around "*dependent*";

and on page 59, line 20, by striking "*or*" after "*mother*" and inserting in lieu thereof "*and*";

and on page 61, line 7, by placing brackets around the comma after "*parents*" and by adding "*or*" after "*parents*" and by placing brackets around "*or mother*";

and on page 85, line 26, by adding a bracket after "minors";

and on page 105, line 3, by adding a bracket after "woman,";

and on page 117, line 2, by striking the underscoring under "[her husband's]";

and on line 3, by striking the underscoring under "dowable]";

and on line 4, by striking the underscoring under "[her]";

and on page 119, line 5, by striking the underscoring under "[wife's]";

and on line 10, by striking the underscoring under "[her husband's]";

and on line 13, by striking the underscoring under "[her]";

and on line 21, by striking the underscoring under "[her]";

and on page 139, line 17, by striking "Recognition of Acknowledgments".

HB 379, AN ACT relating to adoptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) From and after the date of the judgment the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural, legitimate child of the parents adopting it the same as if born of their bodies. Except where a natural parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the department of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) *The date of the judgment in adoption cases shall, for all purposes be the date and time of the placement by an agency or by the department.*

The Committee Substitute for **HB 379** is as follows:

HB 379, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.470 is amended to read as follows:

(1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing, may file a petition for leave to adopt a child in the circuit court of the county in which the petitioner resides.

(2) If the petitioner is married, the husband or wife must join in a petition for leave to adopt a child unless the petitioner is married to a natural parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, such requirement may be waived.

(3) No petition for the adoption of any child under the age of sixteen (16) shall be filed until after the child has lived continuously in the home of the petitioner for at least three (3) months immediately prior to the filing of the petition *unless the child has been placed for adoption by the Department or an agency licensed to place children for adoption by the Department. In the case of a child placed for adoption by the Department or an agency licensed by the Department, the petition may be filed at the time of placement.*

(4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a licensed child-placing institution or agency or by the department, or the child has been placed with written approval of the commissioner; but no such approval shall be necessary in the case of:

(a) A child sought to be adopted by a stepparent, grandparent, sister, brother, aunt or uncle;

(b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the commissioner.

(5) Subsection (4) of this section shall not apply to those children placed for adoption prior to June 14, 1962.

Section 2. KRS 199.510 is amended to read as follows:

(1) Upon filing a petition for the adoption of a minor child, the clerk of the court shall forward two (2) copies of the petition to the department. The department, or any person, agency or institution designated by it or the court shall, to the extent of available facilities, investigate and report in writing to the court;

(a) Whether the contents of the petition required by KRS 199.490 are true;

(b) Whether the proposed adoptive parents are financially able and morally fit to have the care, custody and training of the child; and

(c) Whether the adoption is to the best interest of the child and the child is suitable for adoption.

(2) The report of the department or the designated person, agency or institution shall be filed with the court as soon as practicable but not later than *one hundred-eighty (180)* [ninety (90)] days after the filing date of the petition unless for good cause the court by written order extends the period of time for filing the report. If the department or the designated person, agency or institution is unable to make the report, it shall within ten (10) days of receipt of the petition notify the court of its inability to conduct the investigation, and the court may designate some other person, agency or institution to make the necessary investigation. If the court designates some other person, agency or institution, the clerk shall forward one (1) copy of the petition to such person, agency or institution and shall notify the department of such other designation at the time he forwards the petition to the department.

(3) If the department is a party defendant, its reports, if it files no other pleadings, shall be considered its answer to the petition.

(4) The clerk's fee for copying and forwarding the copies of the petitions required by this section shall be taxed as a cost of the action.

Section 3. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) *Upon entry of the judgment of adoption, from* [From] and after the date of the *filing of the petition*, [judgment] the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural, legitimate child of the parents adopting it the same as if born of their bodies. Except where a natural parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the department of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

HB 398, AN ACT relating to the interstate agreement on detainers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 440 is created to read as follows:

The Agreement on Detainers is hereby enacted into law and entered into by the Commonwealth of Kentucky with all other jurisdictions legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article 1

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article 11

As used in this agreement:

(1) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(2) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article 111 hereof or at the time that a request for custody or availability is initiated pursuant to Article 1V hereof.

(3) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article 111 or Article 1V hereof.

Article 111

(1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(2) The written notice and request for final disposition referred to in paragraph (1) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(3) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(4) Any request for final disposition made by a prisoner pursuant to paragraph (1) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect,

and the court shall enter an order dismissing the same with prejudice.

(5) Any request for final disposition made by a prisoner pursuant to paragraph (1) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (4) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(6) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (1) hereof shall void the request.

Article 1V

(1) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (1) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(2) Upon receipt of the officer's written request as provided in paragraph (1) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, one time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(3) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(4) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (1) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(5) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(5) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(1) In response to a request made under Article 111 or Article 1V hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article 111 of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(2) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(a) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(b) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(3) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article 111 or Article 1V hereof, the

appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(4) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(5) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(6) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(7) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(8) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(1) In determining the duration and expiration dates of the time periods provided in Articles 111 and 1V of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(2) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 2. A new section of KRS Chapter 440 is created to read as follows:

The phrase "appropriate court" as used in the Agreement on Detainers shall, with reference to the courts of this state, mean the circuit court of competent jurisdiction.

Section 3. A new section of KRS Chapter 440 is created to read as follows:

All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the Agreement on Detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

Section 4. A new section of KRS Chapter 440 is created to read as follows:

Nothing in this act or in the Agreement on Detainers shall be construed to require the application of KRS 431.190 to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

Section 5. A new section of KRS Chapter 440 is created to read as follows:

An escape from custody in another state while in custody in another state pursuant to the Agreement on Detainers shall be deemed, for all purposes, as an escape from confinement in this state and may be punished as provided by KRS 432.370, 432.380, 432.390, or other provision of law, as applicable.

Section 6. A new section of KRS Chapter 440 is created to read as follows:

It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the Agreement on Detainers.

Section 7. A new section of KRS Chapter 440 is created to read as follows:

The Governor shall name a state officer or employe to serve as central administrator of and information agent for the Agreement on Detainers.

Section 8. Copies of this act shall, upon its approval, be transmitted to the governor of each state, the attorney general and the administrator of general services of the United States, and the Council of State Governments.

HB 432, AN ACT relating to circuit court clerk fees.

WHEREAS, circuit courts in counties housing State Correctional Institutions receive many felony indictments against inmates who commit crimes during the period of their incarceration; and

WHEREAS, these felony indictments place a great burden on the court and a hardship on its clerk; and

WHEREAS, the cost of handling these cases is often borne solely by the court; and

WHEREAS, the state has a responsibility to assist these circuit courts by caring for its wards;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.020 is amended to read as follows:

(1) Circuit clerks shall be paid out of the state treasury for the following services the following fees:

Certified list of grand or petit jurors to the sheriff or other officer	\$0.25
Filing same when returned by sheriff, and writing names of jurors on slips of paper	.25
Order excusing juror, for each juror excused, except regular panel	.25
Noting names of standing jurors on order book	.25
Order for sheriff or other officer to summon other jurors, each order	.10
Noting on order book the allowance to grand or petit jurors, each	.02
Order appointing and swearing jury commissioners	.25
Furnishing to jury commissioners names of persons exempted from service	.25
Recording receipt of envelope of sealed return of jury commissioner, and the oath of clerk and deputy	.25
In commonwealth cases, in addition to other fees, ten per cent (10%) of all fines and forfeitures recovered in their respective courts and paid into the state treasury. In inquests on persons alleged to be feeble-minded, lunatics or pauper idiots	10.00

(2) (a) Circuit clerks shall be paid ten dollars (\$10.00) out of the state treasury for services rendered for the commonwealth in each prosecution for felony in their respective courts, except those in which the defendant is convicted only of a misdemeanor. A verified statement of such services must first be made out by the clerk and indorsed "Examined and approved" by the regular judge and commonwealth's attorney, and filed with the department of finance after the case has been taken from the docket of the court. In all cases of conviction for a felony the fee of ten dollars (\$10.00) herein allowed shall be taxed against the defendant as costs in favor of the commonwealth.

(b) If a felony indictment is quashed or dismissed with leave granted to resubmit the charge to a grand jury, and a subsequent indictment is returned for the same crime, or any degree thereof consisting of a felony,

the prosecution shall be deemed a continuous one (1) for the purposes expressed in this subsection; but if no indictment is procured or returned upon resubmission before the expiration of the term after the term reciting the order of resubmission, the clerk may claim and have his fee paid immediately.

(c) *Circuit clerks of counties in which institutional facilities are maintained by the state Bureau of Corrections shall receive twenty dollars out of the State Treasury for services rendered for the Commonwealth in cases involving inmates of state correctional facilities, who, during the period and in the county of their incarceration, are indicted for commission of a felony.*

(3) When the commonwealth appeals from a judgment in a felony case, the circuit clerk shall be paid ten dollars (\$10.00), in the same manner stated in subsection (2) (a) of this section, for making out and certifying a transcript for the appeal.

HB 439, AN ACT providing for the use of certified mail, return receipt requested, in lieu of registered mail.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.140 is amended to read as follows:

(1) With the exceptions hereinafter specified, no officer of the department shall be removed, suspended, reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of any rule or regulation promulgated by the commissioner. Any person may prefer charges in writing against any officer, which must be filed in the office of the commissioner. The charges must be signed by the person making the same, and must set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall prefer charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the commissioner shall deliver a copy thereof, [either] personally, [or] by registered mail *or by certified mail, return receipt requested[,]* to the officer offending. Within five (5) days after the receipt thereof, the officer may demand public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

(2) If the charges are denied and the officer demands a hearing within the time above specified, he must make his demand known to the commissioner in writing. After demand for hearing has been made, the commissioner within twenty (20) days from the date thereof, shall arrange for a public hearing before a trial board to be constituted in the manner hereinafter provided. The officer defendant shall be given not less than five (5) days' notice of the time, place and hour of the hearing.

(3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the department or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any circuit court judge, upon application of the trial board, or the commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein.

(4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire, upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.

(5) All charges against the officer defendant; together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.

(6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.

(7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty per cent (20%) for not more than six (6) months, or by removing or dismissing from the service of the department any officer so found guilty.

(8) For the purpose of hearing charges against any officer, as hereinabove set forth, there is created a trial board; which shall consist of the commissioner and of a panel of ten (10) officers of the department appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members thereof to hear charges against any officer in the manner and under the procedure above set forth. The commissioner may promulgate reasonable rules and regulations governing the procedure before the trial board, which do not conflict with this section. The panel or trial board shall be a continuing body, and the officers designated shall serve thereon in addition to their other duties and without any increase in compensation, except they may be reimbursed for meals, lodging and traveling expenses incurred while in the performance of their official duties as members of the board. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted in lieu thereof.

(9) No officer is entitled to a hearing as provided in this section, unless his suspension is for more than twenty (20) days, or his pay reduced more than ten per cent (10%); but if the officer receives more than twenty (20) days suspension or reduction in salary of more than ten per cent (10%) within a period of one (1) year, he shall have the right to such hearing in the manner above provided.

(10) Any civilian employe may be discharged, suspended or reduced in pay at any time by the commissioner, pursuant to KRS chapter 18.

(11) Any officer appointed to the department shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until such officer has been employed by the department for a period of one (1) year or more.

Section 2. KRS 39.410 is amended to read as follows:

In case property is taken for temporary use, the governor shall, within thirty (30) days of the taking, fix the amount of compensation to be paid therefor. In case such property shall be returned to the owner in a damaged condition or shall not be returned to the owner, the governor shall, within thirty (30) days after the taking, fix the amount of compensation to be paid for such damage or failure to return. Whenever the governor shall deem it advisable for the state to take title to property taken under this section, he shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid *or by certified mail, return receipts requested*, and forthwith cause to be filed a copy of said notice with the secretary of state.

Section 3. KRS 40.120 is amended to read as follows:

(1) If a claim is disapproved, the administrator shall send a notice of such decision to the claimant by mail at the address shown in the application. The notice shall be in such form as the administrator may determine, shall contain a designation of the reason for disapproval, shall inform the claimant of his or her right to seek review, shall have attached such form of request for review as the administrator may prescribe, and shall give information as to procedure for review.

(2) Application for review of the administrator's disapproval shall be made only on the forms prescribed and furnished by the administrator; and shall be received in the office of the administrator by the closing hour in the thirtieth day after the day upon which the notice of the disapproval is mailed by the administrator, or be forever barred.

(3) Upon receiving an application for review, the administrator shall transmit the same, together with the original application and all papers in the case, to the board of review, hereinafter created.

(4) The board of review shall promptly consider the same evidence which was available to the administrator, and shall promptly enter in the case file its decision either finally affirming the administrator's decision, or finally determining the claim and the amount thereof.

(5) The board of review shall send a notice of its decision to the claimant by registered mail *or by certified mail, return receipt requested*, and shall return the case file to the administrator. The decision of the board of review shall be a final determination of the claim shown in the application. There shall be no right of recourse on the part of the claimant or the administrator in any court.

Section 4. KRS 40.140 is amended to read as follows:

(1) (a) If a claim is approved by the administrator or finally approved upon resort to the board of review, in whole or in part the administrator shall promptly certify to the commissioner of finance the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(b) A copy of each such certificate shall be sent to the commissioner of revenue, who shall promptly ascertain from the records of his department whether any person proposed to be paid a veterans' bonus is delinquent in the payment of any tax liability to the commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the commissioner of revenue shall within three (3) working days after this receipt of the certificate,

furnish the details thereof to the commissioner of finance; and if no advice of tax delinquency is received by the commissioner of finance before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of this chapter, conclusively presume that no delinquency of tax liability to the commonwealth exists; but such presumption shall apply only to the existence or absence of a setoff by the commonwealth against a certified claim for a veterans' bonus, and shall not alter the facts as between the commonwealth and any taxpayer.

(c) If no advice of tax delinquency is received within such allowed time, the commissioner of finance may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the state treasury for a check in payment.

(d) Upon receipt of such warrant the state treasurer shall issue a check in accordance therewith payable from the proceeds of bonds in accordance with this chapter, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) (a) If the commissioner of finance shall, within the allowed time, receive advice from the commissioner of revenue of the existence of a delinquency on the part of any person having an approved claim for a veterans' bonus, as to any tax liability to the commonwealth, the commissioner of finance shall note the same on the certificate of the administrator, withhold payment, and forthwith send to the claimant by registered mail *or by certified mail, return receipt requested* a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the veterans' bonus payment.

(b) If the commissioner of finance receives no protest in his office within ten (10) working days after recording such notice, he shall conclusively presume that the proposed setoff is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the commissioner of revenue of the amount set off against the veterans' bonus, which advice shall be noted by the commissioner of revenue on the records of his office as a credit upon the delinquent tax liability.

(c) If the tax setoff does not consume the entire amount of the veterans' bonus as certified by the administrator, the commissioner shall draw a warrant upon the state treasury for a check in the amount of the remainder, and upon receiving such check from the state treasurer shall send the same, together with advice of the setoff, by mail, to the payee at the address shown in the certificate of the administrator.

(3) If the commissioner of finance receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the commissioner shall withhold approval for payment, and shall refer the protest to the commissioner of revenue for disposition.

(4) If a tax setoff is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the commissioner of revenue.

Section 5. KRS 61.750 is amended to read as follows:

Reports required by KRS 61.710 to 61.780 shall be filed with the Kentucky Registry of Election Finance and shall be public record, subject to inspection by any citizen of the Commonwealth. Within thirty days after reports are due, the Registry of Election Finance shall publish a list of those persons who have filed reports, and shall notify any person required to file, who has failed to file such report, by registered mail *or by certified mail, return receipt requested* of his failure to comply with KRS 61.710 to 61.780.

Section 6. KRS 77.265 is amended to read as follows:

(1) The hearing board may revoke or modify by written order, after a public hearing held upon not less than ten (10) days' notice, any order permitting a variance.

(2) The hearing board shall serve, by personal service or registered mail *or by certified mail, return receipt requested*, notice of the time and place of a hearing to revoke or modify any order permitting a variance not less than ten (10) days prior to such hearing upon the air pollution control officer, upon all persons who will be subjected to greater restrictions if such order is revoked or modified as proposed and upon all other persons interested or likely to be affected who have filed with the hearing board or air pollution control officer a written request for such notification.

(3) If either the identity or address of any person entitled to such notice is unknown, the hearing board shall serve such person by publication of notice once in a newspaper of general circulation published within the district if such newspaper is published therein, otherwise by posting at a public place at the county seat within the district.

Section 7. KRS 100.212 is amended to read as follows:

When in any planning unit containing any portion of a county a hearing is scheduled on a proposal to amend any zoning map plat, plan, text or regulation, the following notice shall be given in addition to any other notice required by statute by local regulation or ordinance to be given:

(1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed; and

(2) Notice of the hearing shall be given at least 14 days in advance of the hearing by registered mail *or by certified mail, return receipt requested* to the owners of all property adjoining the property the classification of which is proposed to be changed. It shall be the duty of the person or persons proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining

property.

Section 8. KRS 120.160 is amended to read as follows:

(1) The Secretary of State shall forthwith contact each person who has been nominated by the State Board of Elections or by petition and notify him in writing by *certified or* registered mail with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party, provided that he:

(a) Deposits with the Secretary of State the sum required by KRS 120.170; and

(b) Forwards to the Secretary of State a notice of candidacy form to be supplied by the Secretary of State along with the written notification required by this section.

(2) Failure of a candidate to deposit the fee required by KRS 120.170 and to execute the notice of candidacy within 15 days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

Section 9. KRS 122.170 is amended to read as follows:

(1) Any elector who was qualified to and did vote on any constitutional convention, constitutional amendment or statewide public question submitted to the voters of the state for their ratification or rejection may contest the election or demand a recount of the ballots by filing a petition, not more than fifteen (15) days after the official canvass and the announcement of the vote for the state by the state board of elections, with the clerk of the Franklin Circuit Court, which court shall have exclusive jurisdiction to hear and determine all matters in such cases. The petition shall set forth the grounds of the contest. The contestant may file with the clerk of the Franklin Circuit Court and the secretary of state a notice of his intention to contest the election before the announcement of the official count by the state board of elections and thereupon the secretary of state shall forthwith notify all the county boards of election commissioners in the counties involved in the contest to hold the ballots cast at the election on the question subject to the order of the Franklin Circuit Court. The notice shall be served by the secretary of state by mailing a true and certified copy of the notice of contest, and the order to hold the ballots subject to the order of the court, by registered mail *or by certified mail, return receipt requested* to the sheriffs of the counties in question, and the sheriffs shall forthwith acknowledge receipt thereof.

(2) If the Franklin Circuit Court is not in session at the time the petition of contest is filed, the clerk of the court shall immediately notify the judge of the filing of the petition. The judge shall, within five (5) days after the filing of the petition of contest, determine whether there are sufficient grounds stated to justify the contest, and shall thereupon require the contestants to give bonds for costs. All of the hearings relating to the contest shall be held in the courthouse of Franklin County.

(3) The clerk of the Franklin Circuit Court shall cause a notice of the contest to be published pursuant to KRS chapter 424, setting out the substance or the grounds of contest alleged by the contestants.

(4) Any elector who participated in the election on the convention, amendment or statewide public question may make himself a party as contestee in the action by filing his petition to be made a party not later than five (5) days after the contest is instituted, and by giving bond of the costs as required of the contestant. If no elector makes himself a party to the contest, the commonwealth's attorney for the Franklin Circuit Court shall attend the trial of the cause, and he may file such motions and pleadings in the cause on behalf of the commonwealth as will insure a fair and honest determination of the contest.

(5) All laws relating to contested elections for state offices shall apply with equal force to contests of the character contemplated by this section, except as otherwise provided in this section and in KRS 122.180.

Section 10. KRS 123.071 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and with the office he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met his qualifications as a candidate shall not be complete and his filing papers shall not be accepted by the office with which he is required to file. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) A candidate may remove a campaign treasurer at any time.

(3) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by *certified mail, return receipt requested* or registered mail appoint a successor and shall file his name and address with the registry. The candidate shall be disqualified if he fails to meet this filing requirement.

(4) A person may serve as campaign treasurer for more than one candidate, but all reports must be made separately for each individual candidate.

(5) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 123.005 and 123.051 to 123.101 and those adopted by the registry.

Section 11. KRS 125.210 is amended to read as follows:

(1) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(2) Any school board candidate, independent candidate, or independent ticket at the regular election may designate not more than one challenger to be present at and witness the holding of the elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the election is held, shall be appointed in writing by the chairman of the committee, independent candidate or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) Not later than thirty days prior to an election at which Constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the Constitutional amendment or public question is to be voted on. If more than one committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by registered mail *or by certified mail, return receipt requested* to each committee not less than twenty days immediately preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings in the county court, and upon hearing the county judge shall determine which of such committees shall be recognized as the one to select inspectors and challengers at the election.

(4) The committee shall file the names of the persons nominated by it with the clerk of the county at least five days before the election. The county board of elections shall, within two days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any Constitutional amendment or public question is to be voted upon. If more than one amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one person for each amendment and question to serve as inspector at the election and one person for each amendment and question to serve as challenger at the election.

(5) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

(6) Each political party is entitled to have not exceeding two challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 119.085 (1), of the same political party equal to twenty-five percent of all the candidates for that party to be voted for in a county in any primary, including state, district and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one challenger for any precinct from any one list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than seven days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least four days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the circuit court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

Section 12. KRS 132.620 is amended to read as follows:

(1) The department of revenue shall recover from any property valuation administrator all compensation paid to him for assessments that were unauthorized or excessive when and to the extent it is determined by a final order of the board of supervisors, Kentucky board of tax appeals, or a court of competent jurisdiction that such assessments were unauthorized or excessive. Whenever the property valuation administrator fails to render the services required of him or he performs any of his duties in such a manner as to fail to comply substantially with the requirements of the law, he shall be required to pay a sum that will reasonably compensate the commonwealth of Kentucky for its costs in rendering the duties required

to be performed by the property valuation administrator. The department of revenue shall notify the property valuation administrator by registered mail *or by certified mail, return receipt requested* of any amount charged to be due under this section and a statement of the reasons therefor. The property valuation administrator shall be entitled to a hearing before the Kentucky board of tax appeals, and an appeal may be taken from the final action of the Kentucky board of tax appeals to the courts as provided by law.

(2) Any sum that may become due from any property valuation administrator by reason of this section may be deducted from any amount that the commonwealth of Kentucky may become obliged to pay such property valuation administrator, or it may be collected from the bondsman of the property valuation administrator.

Section 13. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline be erroneously refunded, the department shall advise the payee by registered mail *or by certified mail, return receipt requested* of the erroneous refund. If the payee fails to reimburse the commonwealth within fifteen (15) days after the receipt of the letter, an action may be instituted by the department in the Franklin Circuit Court and the department shall recover from the payee the amount of the erroneous refund plus a penalty of twenty per cent (20%).

Section 14. KRS 151.290 is amended to read as follows:

(1) The division shall have the authority to periodically inspect any dam, embankment, levee, or other barrier which restricts the flow of water in a stream in the commonwealth. These inspections shall be made from the standpoint of safety in order to avoid damage to person or property and to protect the supply of water stored therein.

(2) If the division determines that a dam, embankment, levee, or other water barrier is inadequate according to standards established by regulations of the division, it may, after giving the affected parties an opportunity to be heard, compel by an order of the division such remedial measures as it deems are necessary. This order shall be sent by registered mail *or by certified mail, return receipt requested* and such order shall provide a reasonable time to accomplish the necessary repairs or improvements. The failure to accomplish the necessary repairs or improvements within the time limit of the order, shall be a violation and subject the person to the penalties provided in KRS 151.990.

(3) Any person, city, county or other political subdivision who objects to an order of the division and considers himself aggrieved thereby, may obtain a review of the division's order, by filing in the circuit court, within sixty (60) days after entry of the order, a written petition praying that the order be modified or set aside in whole or in part. An appeal may be taken from the judgment of the circuit court to the Court of Appeals on the same terms and conditions as an appeal is taken in any civil action.

(4) Where the dam, embankment, levee or other water barrier is found by the division to pose a serious threat to life or property, it shall direct the attorney general, as provided in KRS 151.460, to seek a mandatory injunction for the correction or removal of the dam, embankment, levee or other water barrier posing such threat.

Section 15. KRS 156.060 is amended to read as follows:

A majority of the board shall constitute a quorum for the transaction of business. The board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairman, and upon written request of two (2) members the chairman shall call a special meeting of the board to be held not later than twenty (20) days following receipt of the written request. The chairman shall give notice through the secretary by registered mail *or by certified mail, return receipt requested* to each member of the board at least ten (10) days prior to the time of any meeting, unless all members of the board waive notice in writing. The offices of the board shall be at the seat of government in the department of education and shall be provided by the state. Members of the board may receive a per diem of twenty-five dollars (\$25.00) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the state board of education.

Section 16. KRS 159.180 is amended to read as follows:

Every parent, guardian or custodian of a child residing in any school district in this state is legally responsible for any violation of KRS 159.010 to 159.170 by the child. Before any proceedings are instituted against the parent, guardian or custodian for violation of KRS 159.010 to 159.170, a written notice of the violation shall be served on the person by the director of pupil personnel, and one (1) day shall be given for the termination of the violation. After such notice, if the violation is continued or if the provisions of KRS 159.010 to 159.170 are again violated during the school term by the child, no further notice shall be necessary and the parent or guardian shall be punishable as provided in KRS 159.990. A notice by registered mail, *certified mail, return receipt requested* or by personal service by the director of pupil personnel shall be a legal notice.

Section 17. KRS 160.045 is amended to read as follows:

(1) If seventy-five per cent (75%) of either the registered voters or property owners in an area adjacent to either a county or independent school district petition the respective school boards for a transfer of said property to the school board district other than that in which it is located or if either board initiates such action, the school boards may effect such transfer by agreement, duly spread upon the minutes of their respective boards.

(2) In the event that the boards fail to agree within ninety (90) days from the filing of petitions for such a transfer, either board may petition the superintendent of public instruction for approval or disapproval of the transfer of the property involved. In his consideration for giving approval or disapproval, he shall be governed by any policies and rules and regulations of the state board of education which may be affected by the transfer of the property and shall give due consideration to the following: the ratio of the wealth of the territory involved in its relation to the total wealth of the district from which the territory will be annexed; the effect of the proposed territorial loss or gain on the educational programs of the respective districts; extent of and effect on the physical plant, facilities and equipment available in each of the affected districts; the indebtedness and bonded or rental obligations of the respective districts; any contemplated indebtedness or obligation arising out of the proposed transfer; and such other factors as may have a bearing upon the determination of the desirability of the proposed annexation from the vantage point of all interested persons.

(3) In those instances where the requested transfer will result in a surplus of physical plant, facilities or equipment in the transferring school district, the superintendent of public instruction shall determine an equitable plan for the transfer of any such surplus to the annexing district as his plan may determine will be needed. His plan shall be based on the fair value of such property on a replacement basis, taking into consideration its age and condition. In any considerations and suggestions which he may propose for the settlement of the differences between the boards of education, he shall be bound by any agreements outstanding between the boards of education of the school districts upon the effective date of this law.

(4) In the event the superintendent of public instruction is unable to arrive at a satisfactory agreement with the two (2) boards of education concerning the transfer of the involved property within one hundred twenty (120) days from the time it is presented to him, either board may request that he bring the matter on for hearing before the state board of education at its next regularly scheduled meeting. In that event, he shall file with the state board of education all the facts which he has gathered, the recommendation he has made, and the basis for his recommendation, for their consideration.

(5) Within at least ten (10) days before the holding of any hearing provided for in subsection two (2) or subsection four (4) of KRS 160.045, the superintendent of public instruction shall serve written notice thereof, by registered mail *or by certified mail, return receipt requested*, on the respective boards fixing the time and place at which the hearing shall be conducted. All hearings provided for herein shall be open to the public, and any interested person may appear and be heard in accordance with such rules and regulations as the state board of education may prescribe with reference thereto.

Section 18. KRS 163.330 is amended to read as follows:

(1) No person shall solicit or perform the services of an agent in this state for a proprietary school, located either within or without this state, unless said person shall have been issued an agent's permit for said proprietary school.

(2) No person shall be issued an agent's permit unless he is an individual of good moral character as determined by the state board.

(3) Except as provided in subsection (8) of this section, no person shall be issued an agent's permit unless he shall make application upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of ten dollars and a good and sufficient surety bond in a penal sum of five thousand dollars. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state.

(4) (a) The surety bond shall be conditioned to provide indemnification to any student or enrollee who shall suffer loss or damage as a result of fraud or misrepresentation to said student or enrollee in procuring his enrollment in a course or courses of instruction or study offered or maintained by said proprietary school. The liability on said surety bond shall be five thousand dollars for each agent each school year, as the term "school year" is defined in KRS 163.340 (8). Regardless of the number of years that an agent's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the state board a duly verified claim against an agent. The board may consider a claim after ten days' written notice by *certified or registered mail, return receipt requested*, to such licensee of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid shall bring an action on such bond in any court of record within the State of Kentucky.

(5) The surety bond may be of blanket form to cover more than one agent for a proprietary school, but it shall cover each agent for said proprietary school in a penal sum of five thousand dollars.

(6) A surety on said bond may be released therefrom after said surety shall make a written notice thereof directed to the state board at least thirty days prior to said release.

(7) The surety bond shall cover the period of the agent's permit except when a surety shall be released in the manner as provided by subsection (6) of this section.

(8) Notwithstanding the provisions of subsection (3) to (7) of this section, the state board may issue an agent's permit to each person who is an owner of more than ten per cent legal interest in a proprietary school located in this state and who is a resident of this state, and no such owner shall be required to pay the agent's permit fee or execute an agent's surety bond as otherwise required by this section; provided, that said proprietary school shall have been issued a certificate of approval pursuant to the provisions of KRS 163.310 to 163.390.

(9) An agent's permit shall be suspended by operation of law when said agent is no longer covered by a surety bond as required by this section; but the state board shall cause said agent to receive at least ten days' written notice prior to the release of his surety to the effect that said permit shall be suspended by operation of law until another surety bond shall be filed to the same manner and like amount as required for the initial surety bond.

(10) An agent's permit shall be valid for a period of one school year as defined in KRS 163.340 (8), except when suspended or cancelled pursuant to the provisions of KRS 163.310 to 163.390. An agent's permit may be renewed in the same manner, at the same fee, and under the same conditions prescribed for the issuance of an initial agent's permit.

Section 19. KRS 163.340 is amended to read as follows:

(1) No person, company, firm, corporation, association, society, or partnership shall maintain and operate a proprietary school located within this state until said school shall have been issued a certificate of approval by the state board pursuant to the provisions of KRS 163.310 to 163.390. No certificate of approval shall be issued by the state board to any proprietary school which denies enrollment in said school to any pupil, on account of race, color, or creed. The Kentucky Commission on Human Rights shall have power to make investigation as to discriminatory practices of any proprietary school, and shall report thereon to the state board, and said board shall, upon report that any such school is engaging in discriminatory practices, deny or suspend a certificate of approval of such school, in accordance with the provisions of this subsection and of subsection (6) (b) of this section, after notice and public hearing as required by KRS 163.310 to 163.390.

(2) No proprietary school shall be issued a certificate of approval unless it shall make application, through its officers or an owner, upon forms to be provided by the state board, and unless said application shall be accompanied by a fee of twenty-five dollars and a good and sufficient surety bond in a penal sum of twenty thousand dollars. Said bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state.

(3) (a) The surety bond shall be conditioned to provide indemnification to any student or enrollee or his parent or guardian suffering loss or damage as a result of any fraud or misrepresentation used in procuring his enrollment or as a result of any fraud or misrepresentation as represented by the application for the certificate of approval, or as a result of the student being unable to complete the course or courses because the school ceased operations. Such indemnification under the surety bond to any or all students or parents or guardians shall, in no case, exceed the advanced tuition paid or liable to be paid for by said student or students or any such parent or guardian and regardless of the number of years that a school's bond is in force, the aggregate liability of the surety bond shall, in no event, exceed the penal sum of the bond. The surety bond may be continuous.

(b) Any claimant may file with the state board a duly verified claim against a proprietary school. The board may consider such claim after ten days' written notice by *certified or* registered mail, return receipt requested, to such school of said complaint giving time and place of hearing thereon and if such claim is found to be correct and due to the claimant, and if the board cannot effect a settlement by persuasion and conciliation, the board shall make a demand upon the principal on such bond and the surety thereon, and if not paid may bring an action on such bond in any court of record within the State of Kentucky.

(4) A surety on said bond may be released therefrom after said surety shall have made a written notice thereof directed to the state board at least thirty days prior to said release.

(5) The surety bond shall cover the period of the certificate of approval except when said surety shall be released in the manner as provided by this section.

(6) (a) The certificate of approval shall be suspended by operation of law when said proprietary school is no longer covered by a surety bond as required by this section; but the state board shall cause said proprietary school to receive at least ten days' written notice prior to the release of said surety to the effect that said approval shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as required for the initial surety bond.

(b) The certificate of approval shall be suspended by operation of law at any time any certified proprietary school shall deny enrollment in said school to any pupil, on account of race, color, or creed.

(7) The application for a certificate of approval shall be accompanied by a copy of each of all school catalogs, bulletins, and other published materials to aid the state board in evaluating the school for the purpose of granting or denying a certificate of approval. The application and accompanying data shall be certified as true and correct in content and policy by the chief executive officer of said proprietary school.

(8) A certificate of approval shall be valid for a period of one school year, beginning the first day of July and ending the thirtieth day of June next following, except when said approval shall be suspended or cancelled pursuant to the provisions of KRS 163.310 to 163.390. A certificate of approval may be renewed in the same manner, at the same fee, and under the same conditions prescribed for the issuance of initial approval.

(9) The bonding requirements herein set forth may be reduced in the sole discretion of the state board upon a showing by the proprietary school that they are excessive in the case of any particular proprietary school.

Section 20. KRS 171.290 is amended to read as follows:

In a proceeding to revoke a certificate of librarianship under the provisions of KRS 171.990 (2), written notice of the proposed action shall be delivered in person, or forwarded by registered mail *or by certified mail, return receipt requested* to the holder of the certificate at his last known post-office address, stating the cause for the contemplated action together with a copy of the charges and appointing a time and a place for the hearing by the board.

Section 21. KRS 177.130 is amended to read as follows:

(1) The department shall give at least ten (10) days' notice by registered mail *or by certified mail, return receipt requested* to the railroad company of a hearing to be held at a time and place stated in the notice, at which hearing it shall consider whether or not the proposed grade separation or change is reasonably necessary and the most advantageous method of effecting the grade separation or change. If the department finds that the grade separation or change is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by registered mail *or by certified mail, return receipt requested* to the railroad company. The order shall specify the location of the crossing to be substituted, the grade thereof, whether it shall pass over or under the railroad tracks, the width of the crossing and the angle at which the crossing shall meet and converge into the roadbed on either side of the railroad tracks. The order may direct the railroad company to prepare plans, specifications and estimates of cost for the grade separation or change in accordance with the general plan prescribed by the order. The order may provide that the plans, specifications and estimates of cost shall be prepared by the department.

(2) When a primary road is relocated and the grade is separated and the new underpass or overhead bridge is located at some point other than the old grade crossing, and when it is necessary that the original grade crossing on the old road be left in for the accommodation of the local public to be used as a county road or private road leading into the primary road, the department shall not take any of the responsibility for the closing of the grade crossing, but its status shall be left to the discretion of the county officials and the railroad company.

Section 22. KRS 177.150 is amended to read as follows:

(1) After receipt of the plans, specifications and estimates of cost from the railroad company the department shall give at least ten (10) days' notice by registered mail *or by certified mail, return receipt requested* to the railroad company of a time and place for final hearing with respect to the grade separation or change. If the department elects to prepare plans, specifications and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of a final hearing. At the final hearing, the department shall approve or modify the plans and specifications and shall consider and determine the method of doing the work, whether by the railroad company or by the department, or partly by one and partly by the other, and whether by contract or by the employees of the department or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The department shall embody its conclusions in a final order, a copy of which shall be sent by registered mail *or by certified mail, return receipt requested* to the railroad company.

(2) The department and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of such agreement all notices, hearings and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the department.

Section 23. KRS 178.355 is amended to read as follows:

(1) Whenever the fiscal court considers it reasonably necessary for the public safety, it may in the manner hereinafter provided, order any railroad company, either steam or electric, owning or operating a railroad in its county, to eliminate any existing grade crossing or change any existing overhead or underpass structure where any county road crosses the railroad tracks of such company.

(2) The fiscal court shall give at least ten (10) days' notice by registered mail *or by certified mail, return receipt requested* to the railroad company of a hearing to be held at a time and place stated in the notice, at which hearing it shall consider whether or not the proposed grade separation or change is reasonably necessary and the most advantageous method of effecting the grade separation or change. In determining whether the proposed grade separation or change is reasonably necessary, the fiscal court shall receive evidence of, and shall consider, all relevant facts, including the present and prospective density of highway traffic and the present and prospective frequency and speed of train movements over the crossing, the adequacy of existing or proposed signals or warning devices for the protection of highway traffic at the grade crossings, the possibility and probability of personal injury to the public using the highway and to employees and passengers of the railroad company and damage to property, and the cost of the grade separation or change in relation to benefits resulting from the proposed construction. If the fiscal court finds that the grade separation or change is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by registered mail *or by certified mail, return receipt requested* to the railroad company. The order shall specify a general plan for the new or changed grade separation. The order shall direct the railroad company to prepare plans, specifications and estimates of cost for the grade separation or change in accordance with the general plan prescribed by the order, or may provide that the plans, specifications and estimates of cost shall be prepared by the county if the grade separation structure shall pass over the railroad tracks. The plans, specifications and estimates of cost may, if requested by any public utility, provide facilities for such public utility.

(3) Within ninety (90) days after the entry of an order directing a grade separation or change, and the preparation of plans, specifications and estimates of cost by the railroad company, the railroad company shall present to the fiscal court, plans, specifications and estimates of cost for the grade separation or change, including the necessary approaches thereto.

(4) After receipt of the plans, specifications and estimates of cost from the railroad company the fiscal court shall give at least ten (10) days' notice by registered mail *or by certified mail, return receipt requested* to the railroad company of a time and place for final hearing with respect to the grade separation or change. If the fiscal court elects to prepare plans, specifications and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of a final hearing. At the final hearing the fiscal court shall consider whether or not the plans make reasonably adequate provision for present and future safety and convenience of highway traffic and present and future safety and efficiency of operation of trains of the railroad company, its employees and passengers, and for the development of highway and railroad facilities, and shall approve or modify the plans and specifications. It shall then consider and determine the method of doing the work, whether by the railroad company or by the county, or partly by one and partly by the other, and whether by contract or by the employees of the county or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The fiscal court shall embody its conclusions in a final order, a copy of which shall be sent by registered mail *or by certified mail, return receipt requested* to the railroad company.

(5) The fiscal court may reject or order the rejection of all bids submitted for the work, or any part thereof, and require a readvertisement for bids. The fiscal court may reject all bids and elect to do the work itself, or partly by itself and by the railroad company, or by contractors, or by a combination of these methods. If the work includes a structure to support the railroad tracks, the railroad company shall have the right to supervise the construction of that part of the work. If the fiscal court elects to do the work itself there shall not be charged to the railroad company any sum in excess of that it would have been required to pay had the contract been let to the lowest bidder.

(6) In all cases where the work is let by the railroad company on contract, the work shall be done under the general supervision of the county road engineer.

(7) The cost of all work incident to or occasioned by the elimination of the grade crossing and the construction of a substituted crossing, or the reconstruction of an existing overhead or underpass structure, including, without limitation of the generality of the foregoing, the cost of preparing plans and specifications, the cost of acquisition of necessary property and property damage, if any, the construction of approaches, drainage structures, and streets and pavements, shall be paid in the proportion of fifteen per cent (15%) by the railroad company and eighty-five per cent (85%) by the county.

(8) As the work progresses the fiscal court shall furnish to the railroad company, and the railroad company shall furnish to the fiscal court, a monthly statement showing in detail all amounts expended in connection with the work. On or about the fifteenth of each month, the county road engineer shall prepare a statement showing the total amount expended to the close of the preceding month, the amount paid or expended by each party up to that time, and the amount due from the county to the railroad company or from the railroad company to the county. Upon receipt of the statement each party shall pay to the other the amounts shown to be due thereby.

(9) All payments made on such monthly statements shall be considered only payments on account, and upon final completion of the work the county road engineer shall prepare and furnish to the railroad company a statement showing the total cost of the work, the amount paid or expended by the county or the railroad company, and the amount due from one to the other. Each party shall be afforded reasonable opportunities to verify the statements of expenditures by the other, and the balance due as certified by the county road engineer in his final statement shall be paid by one party to the other promptly upon receipt of such final statement.

(10) The fiscal court and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of such agreement all notices, hearings and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work were being performed pursuant to a final order of the fiscal court.

Section 24. KRS 178.360 is amended to read as follows:

(1) After June 19, 1952, if the fiscal court proposes to construct a new county road across an existing railroad, or a railroad company proposes to construct a new railroad across an existing county road, the party proposing such construction shall provide the other party with plans and specifications for its proposed construction, showing the location thereof, and, if the proposed crossing is to be separated, a general plan for such separation. The fiscal court shall give at least ten (10) days' notice of a hearing to be held at a time and place stated in the notice, at which hearing it shall consider whether the proposed crossing shall be approved and whether a grade separation is reasonably necessary for the present and future safety and convenience of highway traffic and present and future efficient operation of the railroad company's facilities and the safety of its employes and passengers, and in accordance with the standards prescribed for grade separations in KRS 178.355.

(2) If the fiscal court shall find that a grade separation is reasonably necessary at such proposed crossing, it shall approve, or provide for the submission and subsequent approval of, plans and specifications for the grade separation. The determinations of the fiscal court shall be by order, and its final determination shall be by final order, which shall fix the method of doing the work in the manner provided in subsection (4) of KRS 178.355, and which shall be served on the railroad company by registered mail *or certified mail, return receipt requested*. If the fiscal court orders a grade separation at such proposed crossing, the entire cost of such separation shall be borne by the party proposing the crossing.

(3) The fiscal court and the railroad company may agree by contract as to the method of constructing grade separations under this section and the distribution or allocation of cost thereof, under this section, and in such event, all notices, hearings and orders shall be deemed to have been waived, and the construction of the crossing shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the fiscal court.

Section 25. KRS 188.030 is amended to read as follows:

The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the Secretary of State and shall also deliver with the summons an attested copy of plaintiff's complaint. The Secretary of State shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid registered mail *or by certified mail, return receipt requested* and shall bear the return address of the Secretary of State. The sheriff shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

Section 26. KRS 199.670 is amended to read as follows:

(1) The department may revoke a license under KRS 199.640 for any condition which would have caused a denial of the license in the first instance. The department may refuse to issue a license in any case where the applicant is not found to possess the qualifications prescribed by the commissioner.

(2) In any case where the department proposes to revoke or to refuse to issue a license, written notice shall be given to the licensee or applicant, stating the proposed action and grounds therefor, and notifying the licensee or applicant that such license will be revoked or refused unless the applicant or licensee makes application for a hearing before the commissioner within thirty days of such notice. If application for such hearing is made, the commissioner shall set a time for the hearing, of which ten days' notice shall be given to the licensee or applicant, and at the hearing the licensee or applicant shall be entitled to be heard in person or by counsel, and to present witnesses. Following the hearing the commissioner shall render a decision in writing, setting forth his findings of fact and conclusions of law, and affirming, modifying or setting aside the findings of the department, and shall send a copy thereof to the licensee or applicant by registered mail *or by certified mail, return receipt requested*.

(3) The decision may be reviewed in the circuit court of the county in which the child-caring facility or child-placing agency is located, by action commenced within thirty days after receipt of the copy of the

decision, and in such action the findings of fact made by the commissioner shall be conclusive if supported by any competent evidence.

Section 27. KRS 206.160 is amended to read as follows:

In cases where a pension has been granted, if the commissioner of finance finds that the pension was wrongfully granted, or that the pensioner has moved out of the state, or has in any other way become no longer entitled thereto, he may drop the pensioner's name from the pension roll after first giving him thirty (30) days' notice by registered mail *or by certified mail, return receipt requested*, thus giving the pensioner an opportunity to be heard or present any evidence he may desire to offer as to why his name shall not be dropped from the pension roll.

Section 28. KRS 211.220 is amended to read as follows:

For the purposes of enforcing the public health laws of the commonwealth, investigators, inspectors, officers, representatives and agents of the department may enter upon any premises when necessary for the purpose of making inspections and investigations, and may view evidence and interrogate persons, to the extent required in the performance of their duties and responsibilities. The board or the commissioner may issue subpoenas, subpoenas duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the commonwealth. Service of process may be made by registered mail, *by certified mail, return receipt requested* or in the manner prescribed by the Rules of Civil Procedure. Nothing in this section shall be construed to authorize the department or board to regulate the practice of any healing art where the licensure regulation and control of same has been conferred by statute upon some other agency of the state.

Section 29. KRS 212.245 is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment and personnel of the state department of health or of the United States public health service upon such terms of payment or reimbursement as are agreed on by the department and the state department of health or the United States public health service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employees and compensate and defray the reasonable expenses of said employees while they are pursuing public health training courses approved by the state department of health;

(4) Establish or contribute to a retirement system or fund for employees of the department, including any retirement system for state employees;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the state board of health or the county board of health. Notwithstanding the provisions of this section and KRS 212.210, any health officer may institute and maintain mandatory or prohibitory injunction proceedings in the appropriate circuit courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the state board of health and the county board of health and the orders described in this section or in KRS 212.210;

(7) Through its health officers, representatives and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the commonwealth. Service of process may be made by registered mail, *by certified mail, return receipt requested* or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies and organizations in matters relating to public health;

(10) Elect coverage under the state's workmen's compensation laws with the approval of the state department of health;

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 30. KRS 217.380 is amended to read as follows:

(1) The officials in charge of the enforcement of the pure food laws of this state, the state board of health, the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or

manufacture for sale, or the storage, sale, distribution or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.

(2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the state board of health, or to the chief local health officer, as the case may be.

(3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending a copy by *certified mail, return receipt requested or by registered mail*[,] in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the state board of health. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 31. KRS 221.100 is amended to read as follows:

The owner of any frozen food locker plant shall have a lien on the contents of each locker, compartment or space for the payment of the locker rental thereon and any processing or other charges. Such lien may be foreclosed by giving a written notice by *certified mail, return receipt requested or by registered mail* to the renter of such locker, compartment or space, and, after ten (10) days from date of the notice, the owner may proceed to sell the contents of the locker, at either public or private sale, for the reasonable value of its contents. If the proceeds from the sale exceed the amount of the lien, the balance shall be duly paid to the renter. The place, time and kind of sale shall conform to the written notice to the renter.

Section 32. KRS 249.317 is amended to read as follows:

The board shall after denying an application for a license, if petitioned by the applicant within ten (10) days of notification, or before suspending or revoking any license, set the matter down for a hearing and shall at least fifteen (15) days prior to the date set for the hearing notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. Such written notice may be served by delivery of it personally to the applicant or licensee or by mailing it by registered mail or by *certified mail, return receipt requested* to his last known address. The hearing shall be at the time and place prescribed by the board.

Section 33. KRS 250.488 is amended to read as follows:

In addition to the penalties provided in KRS 250.991, any person, firm or corporation who shall violate or remain in violation of any of the provisions of KRS 250.482 to 250.488 or of any rule or regulation promulgated thereon may be directed and ordered by notice in writing setting forth the facts relating to such violation to correct same. Such notice shall be served personally upon said person or mailed by *certified mail, return receipt requested or by registered mail* to the principal office of said person, firm or corporation, or if an individual or individuals, to his or their residence. If such order is not complied with and such violation not corrected within twenty (20) days of service of such order, the department may file in the circuit court of the county of residence if a person, or place of business if a corporation where such violation occurs, a complaint setting up the facts and praying an injunction. The court upon hearing shall determine the case, and issue proper orders. All orders of the department, issued after a hearing, shall be prima facie evidence of the truth of the matters involved, and may be appealed to circuit court as in other cases.

Section 34. KRS 250.710 is amended to read as follows:

The commissioner shall notify any applicant or owner by *certified mail, return receipt requested* registered mail of any decision to refuse to grant a registration or to revoke a registration within ten (10) days after such decision, and the applicant or owner shall have thirty (30) days after the notification within which to petition the commissioner for a rehearing. The commissioner shall within ten (10) days after the rehearing

notify the applicant or owner of his decision, and if the decision be unfavorable, the applicant or owner shall have thirty (30) days within which to appeal the decision to the Franklin Circuit Court. If the owner takes an appeal within the time herein provided, the revocation by the commissioner shall not become final until finally adjudicated, however the commissioner may require the posting of a reasonable and appropriate bond pending final adjudication.

Section 35. KRS 251.510 is amended to read as follows:

The board shall, after denying an application for a license, if petitioned by the applicant within fifteen (15) days of notification, or before suspending or revoking any license, set the matter down for a hearing, and shall, at least fifteen (15) days prior to the date set for the hearing, notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing. Such written notice may be secured by personal delivery to the applicant or licensee or by mailing it by *certified mail, return receipt requested or by* registered mail to his last known address. The hearing shall be at the time and place prescribed by the board.

Section 36. KRS 260.740 is amended to read as follows:

Before refusing to grant or to reissue, or before suspending or revoking a license, the commission shall give such licensee an opportunity to be heard and shall give notice to such licensee by registered mail *or by certified mail, return receipt requested* at least five (5) days prior to the hearing containing a statement of the matters complained of. After such hearing and after reaching a decision, the commission shall notify the licensee by registered mail *or by certified mail, return receipt requested* within ten (10) days.

Section 37. KRS 271A.070 is amended to read as follows:

(1) The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the Secretary of State shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice, or demand is served on the Secretary of State, he shall immediately cause one of the copies thereof to be forwarded by *certified mail, return receipt requested or by* registered mail, addressed to the corporation at its registered office. Service on the corporation shall be deemed to have been made on the tenth day after the day when the process, notice or demand is served on the Secretary of State in accordance with this section.

(3) The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(4) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Section 38. KRS 271A.240 is amended to read as follows:

(1) In addition to any other liabilities imposed by law upon directors of a corporation:

(a) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this chapter or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this chapter or the restrictions in the articles of incorporation;

(b) Directors of a corporation who vote for, or assent to, the purchase of its own shares contrary to the provisions of this chapter shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this chapter;

(c) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(2) A director of a corporation who is present at a meeting of its board of directors at which action described in this section is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by *certified mail, return receipt requested or by* registered mail to the secretary of the corporation within sixty days after the adjournment of the meeting but in no event later than three days after he has learned of such action. Such

right to dissent shall not apply to a director who voted in favor of such action.

(3) A director shall not be liable under paragraphs (a), (b) or (c) of subsection (1) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by any independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

(4) Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this chapter, in proportion to the amounts received by them.

(5) Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

Section 39. KRS 271A.565 is amended to read as follows:

(1) The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) Whenever a foreign corporation authorized to transact business in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the Secretary of State shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of State, he shall immediately cause one of such copies thereof to be forwarded by *certified mail, return receipt requested* or by registered mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Service on the corporation shall be deemed to have been made on the tenth day after the day when the process, notice or demand is served on the Secretary of State in accordance with this section.

(3) The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(4) Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

Section 40. KRS 271A.585 is amended to read as follows:

(1) A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application for withdrawal, which shall set forth:

- (a) The name of the corporation and the state or country under the laws of which it is incorporated;
- (b) That the corporation is not transacting business in this state;
- (c) That the corporation surrenders its authority to transact business in this state;
- (d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the Secretary of State; and
- (e) A post-office address to which the Secretary of State may mail a copy of any process against the corporation that may be served on him.

(2) If any process is served on the Secretary of State pursuant to paragraph (e) of this section, the Secretary of State shall immediately cause a copy thereof to be forwarded by *certified mail, return receipt requested* or by registered mail to the corporation at the post office address designated by the corporation pursuant to paragraph (e) of this section. Service on the corporation shall be deemed to have been made on the tenth day after the day when the process is served on the Secretary of State in accordance with this section.

(3) The application for withdrawal shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

Section 41. KRS 273.183 is amended to read as follows:

(1) The registered agent so appointed by a corporation shall be agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(2) Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice, or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one (1) of the copies thereof to be forwarded by *certified mail, return receipt requested* or by registered mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty (30) days.

(3) The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

(4) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Section 42. KRS 273.327 is amended to read as follows:

(1) Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general in the circuit court of the county in which the registered office of the corporation is situated.

(2) Summons shall issue and be served as in other civil action. If process is returned not found, the attorney general shall have the defendant constructively served as provided in CR 4.05, and shall cause publication to be made in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general shall cause a copy of such notice to be mailed, by registered mail or *certified mail, return receipt requested*[.] to the corporation at its registered office within ten (10) days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two (2) successive weeks, and the first publication thereof may begin at any time after the summons has been returned.

Section 43. KRS 278.320 is amended to read as follows:

The commission and each of the commissioners may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the commission, and such process shall extend to all parts of the state. Service of process in all proceedings brought before or initiated by the commission may be made by *certified mail, return receipt requested* or by registered mail, or in the same manner as other process in civil cases, as the commission directs.

Section 44. KRS 279.570 is amended to read as follows:

Any foreign nonprofit or cooperative corporation furnishing or authorized to furnish telephone service and owning or operating telephone lines or facilities in an adjacent state may construct or acquire extensions of such lines in this state and operate such extensions without complying with any statute of this state pertaining to the qualifications of foreign corporations for the doing of business in this state. Any such corporation shall, before constructing or operating such extensions, by an instrument executed and acknowledged on its behalf by its president or vice president, under its seal attested by its secretary, and filed with the secretary of state, designate the secretary of state its agent to accept service of process on its behalf. Thereafter, with respect to its operations in this state, such corporation shall have only the rights, powers, privileges and immunities of, and shall be subject to all of the laws of this state relating to the jurisdiction and supervision of the public service commission in the same manner and to the same extent as, a cooperative organized under KRS 279.310 to 279.600. In the event any process shall be served upon the secretary of state, he shall forthwith forward the same by *certified mail, return receipt requested* or by registered mail to such corporation at the address thereof specified in the aforesaid instrument.

Section 45. KRS 287.540 is amended to read as follows:

(1) Whenever it appears that the capital stock of any bank or trust company has been impaired, the commissioner of banking and securities shall notify such bank or trust company and each director thereof, to make such impairment good within thirty (30) days, and the officers and directors of any bank or trust company receiving such notice shall immediately call a special meeting of its stockholders for the purpose of making assessments on its stock sufficient to cover the impairment of its capital, payable in cash, or may, with the consent of the commissioner of banking and securities, reduce its capital to the extent of the impairment, if such reduction will not place its capital below the amount required by law.

(2) The board of directors of every bank or trust company whose capital has become impaired, shall, within thirty (30) days after receiving notice from the commissioner of banking and securities, assess the deficiency in such capital upon the stockholders, to be paid in cash, pro rata for the amount of capital stock

held by each. Notice of the amount so assessed upon each stockholder and that, if such assessment is not paid within the time herein limited, a sufficient amount of his stock will be sold, shall be given to him by registered mail *or by certified mail, return receipt requested*.

(3) If any stockholder of such bank or trust company fails to pay such assessment within sixty (60) days after receipt of such notice, the board of directors shall cause a sufficient amount of the stock of such stockholders to be sold at either public or private sale, to make good the deficiency, and the balance shall be returned to the delinquent stockholder. If the directors of such bank or trust company fail for thirty (30) days after such notice to levy such assessment, the commissioner of banking and securities may, with the advice and consent of the attorney general, institute necessary proceedings to wind up the affairs of the bank or trust company. If any bank or trust company fails to cause to be paid in such deficiency in its capital stock for ninety (90) days after receiving such notice, the commissioner of banking and securities may forthwith institute the necessary proceedings to wind up the affairs of the bank or trust company.

(4) A sale of stock as provided in this section shall effect an absolute cancellation of the outstanding certificates, evidencing the stock so sold, and new certificates shall be issued by the bank or trust company to the purchaser of such stock.

Section 46. KRS 289.321 is amended to read as follows:

When funds are available for such purpose, the association may redeem, by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts or savings certificates on a dividend date by giving thirty (30) days' notice by *certified mail, return receipt requested or by registered mail* addressed to each affected account holder at his last address as recorded on the books of the association. No association shall redeem any of its savings accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty (30) days and have not been reached for payment. The redemption price of savings accounts redeemed shall be the full value of the account redeemed, as determined by the board of directors, but in no event shall the redemption price be less than the withdrawal value. If the notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the accounts called for redemption shall cease to accrue after the dividend date specified as the redemption date, and all rights with respect to such accounts shall, after such redemption date, terminate, except the right of the account holder of record to receive the redemption price without dividend. All saving account books or certificates evidencing savings accounts which have been validly called for redemption must be tendered for payment within ten (10) years from the date of redemption designated in the redemption notice, otherwise they shall be canceled and all claims of such account holders against the association shall be barred.

Section 47. KRS 289.700 is amended to read as follows:

(1) The commissioner shall have general supervision over all associations and corporations which are subject to the provisions of this chapter. He shall enforce the purposes of this chapter by use of the powers herein conferred and by reference to the courts when required.

(2) Every approval by the commissioner given pursuant to the provisions of this chapter and every communication having the effect of an order or instruction to any association shall be in writing signed by the commissioner under seal, and shall be sent by *certified mail, return receipt requested or by registered mail* to the association affected, addressed to the president at the home office of the association.

Section 48. KRS 291.560 is amended to read as follows:

(1) The commissioner or his authorized agent shall conduct the hearing required by KRS 291.550.

(2) The commissioner may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena, the commissioner may invoke the aid of the Franklin Circuit Court.

(3) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses and examine such evidence and documents as may be produced against him. The accused is entitled, on application to the commissioner, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The commissioner may also be represented by counsel.

(4) A stenographic record of the proceedings shall be kept, but it is not necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The order of the commissioner shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(6) A copy of an order suspending or revoking a certificate shall be served upon the certificate holder by *certified mail, return receipt requested or by registered mail* immediately upon entry by the commissioner.

Section 49. KRS 292.430 is amended to read as follows:

(1) Every applicant for registration as a broker-dealer or agent under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the director, in such form as he by rule prescribes, an irrevocable consent appointing the director or his successor in office to be his attorney to receive service of any lawful process in any

noncriminal suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless

(a) the plaintiff, who may be the director in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by *certified mail, return receipt requested or by registered mail* to the defendant or respondent at his last address on file with the director, and

(b) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and he has not filed a consent to service of process under subsection (1) and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his appointment of the director or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the director, and it is not effective unless

(a) the plaintiff, who may be the director, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by *certified mail, return receipt requested or by registered mail* to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and

(b) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Section 50. KRS 304.8-120 is amended to read as follows:

(1) All assets deposited shall be valued by the commissioner when deposited, such valuation to be determined in accordance with the applicable provisions of this code.

(2) If at any time the commissioner finds that the value of assets on deposit by an insurer is less than the amount required for the purposes for which the deposit was made, he shall by registered mail *or by certified mail, return receipt requested*, addressed to the insurer at its home office, notify the insurer of such deficiency and require that the deficiency be cured within thirty (30) days from the date of such mailing. The commissioner may suspend or revoke the certificate of authority of any insurer failing to cure any such deficiency within such thirty (30) days.

Section 51. KRS 304.29-400 is amended to read as follows:

(1) Every society authorized to do business in this state shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney, shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by such commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(2) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office, it shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one (1) of the duplicate copies by *certified mail, return receipt requested or by registered mail*, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner of insurance a fee of \$5.00.

Section 52. KRS 304.33-110 is amended to read as follows:

(1) Summary order after hearing. Whenever the commissioner has reasonable cause to believe, and determines, after a hearing held as prescribed in subsection (2) of this section, that any insurer has committed or engaged in, or is committing or engaging in or is about to commit or engage in any act, practice or transaction that would subject it to formal delinquency proceedings under this subtitle, he may make and serve upon the insurer and any other persons involved, such orders other than seizure orders under KRS 304.33-120 as are reasonably necessary to correct, eliminate or remedy such conduct, condition or ground. If the order is for a restoration of or addition to capital, it shall be carried out as provided in KRS 304.24-350.

(2) Service, notice, hearing. The notice of hearing under subsection (1) of this section and the summary order issued under subsection (1) of this section shall be served by delivery or by mailing *certified mail, return receipt requested or by registered mail* and postage prepaid, addressed to the insurer at its

principal place of business. The notice of hearing under subsection (1) of this section shall state the time and place of hearing, and the conduct, condition or ground upon which the commissioner would base his order. Unless mutually agreed between the commissioner and the insurer, the hearing shall occur not less than ten (10) days nor more than thirty (30) days after notice is served and shall be either in Franklin County or in some other place convenient to the parties to be designated by the commissioner.

(3) Judicial relief. Subsequent to a hearing the insurer or any person whose interests are substantially affected shall be entitled to judicial review of any order issued by the commissioner.

(4) Enforcement by injunction. The commissioner may apply for and any court of general jurisdiction may grant, such restraining orders, temporary and permanent injunctions and other orders as are deemed necessary to enforce a summary order.

Section 53. KRS 304.33-570 is amended to read as follows:

(1) Filing claims. In a liquidation proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside within this state may file claims either with the ancillary receiver, if any, in this state, or with the domiciliary liquidator. Claims must be filed on or before the last dates fixed for the filing of claims in the domiciliary liquidation proceeding.

(2) Proving claims. Claims belonging to claimants residing in this state may be proved either in the domiciliary state under the law of that state or in ancillary proceedings, if any, in this state. If a claimant elects to prove his claim in this state, he shall file his claim with the court in the manner provided in KRS 304.33-360 and 304.33-370. The ancillary receiver shall make his recommendation to the court as under KRS 304.33-440. He also shall arrange a date for hearing if necessary under KRS 304.33-400 and shall give notice to the liquidator in the domiciliary state, either by registered mail, *certified mail, return receipt requested* or by personal service at least forty (40) days prior to the date set for hearing. If the domiciliary liquidator, within thirty (30) days after the giving of such notice, gives notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest the claim, he shall be entitled to appear or to be represented in any proceeding in this state involving the adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to amount and as to priority against special deposits or other security located in this state.

Section 54. KRS 304.34-100 is amended to read as follows:

(1) If any bail bondsman is convicted by a court of a violation of any of the provisions of this subtitle, the license of such individual shall therefore be deemed to be immediately revoked, without any further procedure relative thereto by the commissioner.

(2) As to licenses issued under this subtitle and thereafter suspended or revoked, or renewal thereof refused by the commissioner, the procedures hereinafter set forth in this section shall apply:

(a) If after investigation or upon other evidence the commissioner has reason to believe that there may exist any one or more causes for suspension, revocation or refusal to renew or continue the license of any bail bondsman as such causes are specified in subsection (1) of KRS 304.34-090 or that a bail bondsman has been guilty of violating any of the laws of this state relating to bail bonds, the commissioner shall mail written notice by *certified mail, return receipt requested* or by registered mail of his intention to suspend, revoke, or to renew the license as the case may be, accompanied by a copy of the charges against the licensee to the licensee, and, if applicable, to the insurer or corporation represented by the licensee agent, or the bail bondsman represented by the licensee if an employee of another licensed bail bondsman.

(b) If within twenty (20) days after the date of mailing the notice and charges as provided for in paragraph (a) of this subsection, the licensee has not filed with the commissioner a written answer to such charges coupled with a written request for a hearing thereon, the commissioner may proceed to suspend, revoke or refuse to renew the license.

(c) If within such twenty (20) days an answer and request for hearing is so filed with the commissioner, the commissioner shall hold a hearing with respect to the charges, the hearings to be held within sixty (60) days of the date of the mailing of the notice and charges referred to in paragraph (a) of this subsection, unless postponed by the mutual consent of the parties. The commissioner shall give the licensee written notice of the hearing and of the matters to be considered thereat not less than ten (10) days in advance of the hearing date.

(d) Following the hearing the commissioner shall make his order thereon and mail a copy thereof by *certified mail, return receipt requested* or by registered mail to the address last of record in his office of each party to the hearing. If by his findings made upon the hearing the commissioner finds that one or more of the causes thereof exist as specified in subsection (1) of KRS 304.34-090 his order shall incorporate the taking of action relative to suspension, revocation or refusal to renew the license as authorized.

(3) Appeals from final orders of the commissioner under this subtitle shall be made to the Franklin Circuit Court pursuant to the Kentucky Rules of Civil Procedure.

Section 55. KRS 313.330 is amended to read as follows:

(1) The board may, upon complaint or upon its own motion, after a hearing, and after ten (10) days' notice, in writing, to the licensee of the time and place of hearing, revoke or suspend or refuse to renew the license of any dental hygienist by entering an order to that effect, together with its findings in respect thereto,

if it shall be determined that such licensee:

(a) Has violated any of the provisions of KRS 313.260 to 313.350 or any regulation made thereunder;

or

(b) Has made a material false statement in his application for examination; or

(c) No longer possess good moral character; or

(d) Directly or indirectly advertises or solicits for dental hygiene business; or

(e) Is grossly inefficient in his profession.

(2) In any proceeding to revoke, suspend or refuse to renew the license of any licensee a certified copy of any order entered by the board shall immediately be delivered or sent to the licensee by *certified mail, return receipt requested or by registered mail* at his last known address.

Section 56. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the board.

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by *certified mail, return receipt requested or by registered mail*, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the board in the manner provided by KRS 311.595. The decision of the board shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the board suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 57. KRS 321.360 is amended to read as follows:

The board, before denying an application for license under the provisions of KRS 321.340 or before suspending or revoking any license under the provisions of KRS 321.340 and 321.350, shall set the matter down for hearing; and, at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the applicant or licensee or by mailing same by *certified mail, return receipt requested or by registered mail* to the last known business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe.

Section 58. KRS 323.130 is amended to read as follows:

(1) No license shall be revoked or suspended without a hearing. The board may proceed against a license on its own initiative, on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.

(2) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the accused not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by *certified mail, return receipt requested or by registered mail* to the address of the accused last known to the board.

Section 59. KRS 323.140 is amended to read as follows:

(1) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(2) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

(4) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(6) A copy of an order suspending or revoking a license shall be served upon the licensee by *certified mail, return receipt requested or by registered mail* immediately upon entry by the board. Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 60. KRS 323A.120 is amended to read as follows:

(1) No license shall be revoked or suspended without a hearing, the board may proceed against a licensee on its own initiative; on the basis of either information contained in its own records or information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if it were true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three months.

(2) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the accused not less than twenty days prior to the date of the hearing, either personally or by mailing a copy thereof by *certified mail, return receipt requested or by registered mail* to the address of the accused last known to the board.

Section 61. KRS 323A.130 is amended to read as follows:

(1) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths, take testimony, hear proof and receive exhibits in evidence. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in the state.

(2) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf. The board may also be represented by counsel.

(3) The board shall not be bound by technical rules of evidence, but the order of the board shall be based upon competent evidence.

(4) A stenographic record of the proceedings shall be kept, but it shall not be necessary to transcribe shorthand notes unless an appeal is taken from the order.

(5) The board's order shall be in writing and shall be accompanied by findings of fact and conclusions of law.

(6) A copy of an order suspending or revoking a license shall be served upon the licensee by *certified mail, return receipt requested or by registered mail* immediately upon entry by the board. Any license that is suspended or revoked shall be surrendered to the board accompanied by the licensee's certificate.

Section 62. KRS 324.140 is amended to read as follows:

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the secretary of the commission, said consent stipulating and agreeing that such service of such process or pleadings on said secretary shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in the state of Kentucky. Said instrument containing such consent shall be

authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officers to execute the same. In case any process or pleadings mentioned in the case are served upon the secretary of the commission, it shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by *certified mail, return receipt requested or by registered mail* to the main office of the applicant against which said process or pleadings are directed.

Section 63. KRS 324.170 is amended to read as follows:

The commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by *certified mail, return receipt requested or by registered mail* to the last known business address of such applicant or licensee. If such applicant or licensee be a salesman the commission shall also notify the broker employing him or whose employ he is about to enter by mailing notice by *certified mail, return receipt requested or by registered mail* to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

Section 64. KRS 324.310 is amended to read as follows:

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by *certified mail, return receipt requested or by registered mail* to the commission such real estate salesman's license. The real estate broker shall, at the time of mailing such real estate salesman's license to the commission, address a communication to the last known residence address of such real estate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said license from and after the date of receipt of the said license from said broker by the commission; Provided, That another license shall not be issued to such real estate salesman until he shall return his former pocket card to the commission or shall satisfactorily account to it for the same. Provided, further, That not more than one (1) license shall be issued to any real estate salesman for the same period of time.

Section 65. KRS 325.360 is amended to read as follows:

(1) The board may initiate proceedings under KRS 325.220 to 325.440 either on its own motion or on the complaint of any person.

(2) A written notice stating with reasonable particularity the nature of the charge and such acts of professional misconduct as are complained of against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than thirty (30) days prior to the date of the hearing either personally or by mailing a copy thereof by *certified mail, return receipt requested or by registered mail* to the address of the accused last known to the board.

(3) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing, the board may hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review thereof as provided herein: Provided, however, That within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear, the board may reopen said proceedings and may permit the accused to submit evidence in his behalf.

(4) At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(5) The board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with or at the hearing under KRS 325.220 to 325.440. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(6) The board shall not be bound by technical rules of evidence.

(7) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(8) At all hearings the attorney general of this state, or one (1) of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court within sixty (60) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. The case shall then be tried de novo on the record but the parties shall be permitted to file briefs. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity and may be appealed from to the Court of Appeals.

Section 66. KRS 326.100 is amended to read as follows:

No license shall be suspended or revoked until after a hearing before the board upon notice to the license holder of at least ten (10) days. The notice shall be served either personally or by registered mail *or certified mail, return receipt requested* and shall state the date and place of the hearing and set forth the ground or grounds constituting the charges against the license holder. The license holder shall be heard in his defense either in person or by counsel and may produce witnesses and testify in his own behalf.

Section 67. KRS 328.080 is amended to read as follows:

(1) The board may revoke a certificate of registration upon the failure of the holder thereof to pay the annual renewal fee, upon giving said holder thirty (30) days' notice in writing of such proposed revocation. Notice shall be sufficient when sent by *certified mail, return receipt requested or by* registered mail to the last known address of the holder.

(2) The board may revoke a certificate of registration obtained through error of the board or fraud on the part of the applicant, or if the holder is grossly incompetent, guilty of immoral or unethical conduct, or obtained or sought to obtain anything of value by fraudulent representations in the practice of watchmaking. The holder of such certificate shall be given thirty (30) days' notice in writing enumerating the charges and specifying a date for the hearing on such charges. At the hearing he shall have the opportunity to confront witnesses against him and to produce evidence bearing on such charges. A stenographic record of all proceedings shall be made and transcript kept on file with the board. Any aggrieved holder may appeal to the Franklin Circuit Court on the board's ruling within fifteen (15) days from entry of the order of revocation.

(3) One whose certificate has been revoked, may, upon the expiration of one (1) year after such revocation, apply to the board for registration and upon satisfactory proof that the cause of revocation no longer exists, the board may, in its discretion, issue to said person a certificate of registration upon payment of the fees herein provided.

(4) "Unethical conduct" as used in this chapter shall include and mean any conduct of a character likely to mislead, deceive or defraud the public; advertising of any character in which untruthful or misleading statements are made; advertising of prices on watch repairing or the giving of watch glasses, crystals or of any other watch parts, gratis or at less than cost, in order to advertise or increase watch repair business; performance of any service in pursuance of any such advertising; loaning of a certificate of registration to any person; failure to display the certificate of registration conspicuously at all times; representation that a watch has been cleaned although its major parts, train wheels and mainspring have not been disassembled and the capped jewels removed and all parts properly cleaned; performance of any work upon a watch in an unworkmanlike or unskilled manner; representation that certain services or parts are necessary or have been or will be used in the repair of a watch, although such services or parts are not necessary and have not been used in such repairs; employing directly or indirectly, any unregistered watchmaker to perform any watchmaking; or noncompliance, within thirty (30) days, with the directions given in a written notice from any provision of this chapter.

Section 68. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for an auctioneer's license shall be at least eighteen (18) years of age and be a citizen of the United States. In addition an applicant shall have served a bona fide apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky. Every application for a license, whether as an auctioneer or apprentice auctioneer, shall be submitted on forms prepared by the board.

(2) Every applicant for an apprentice auctioneer's license shall be a citizen of the United States and at least eighteen (18) years of age. In addition to other requirements imposed by this chapter, the applicant shall furnish pertinent background data as outlined on the application forms furnished by the board.

(3) The issuance fee for each auctioneer's and apprentice auctioneer's license shall be \$15.00 and the annual renewal fee for each license shall be \$15.00. All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed conspicuously at all times in the office of the licensee. The certificate and pocket card of the apprentice auctioneer shall contain the name and address of the auctioneer under whose supervision he is employed.

(5) When any apprentice auctioneer is discharged or terminates his employment with the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or mail by *certified mail, return receipt requested or by registered mail* to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his license, until the apprentice auctioneer receives a new license bearing the name and address of his new employer. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(6) Notice in writing shall be given to the board by each licensee of any change of principal business location, whereupon the board shall issue a new license for the unexpired period. A change of business location without notification to the board shall automatically cancel the license previously issued. Changing a business location and issuance of a new license shall entitle the board to collect \$3.00.

Section 69. KRS 330.090 is amended to read as follows:

(1) A nonresident may become an auctioneer or apprentice auctioneer by conforming to all the conditions of this chapter.

(2) In every instance the nonresident must pay the issuance fee, the annual renewal fee and file the bond required by this chapter.

(3) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth, by the service of any summons, process or pleadings authorized by law on the secretary of the board. The consent shall stipulate and agree that the service of such process, summons or pleadings on the secretary shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process or pleadings are served upon the secretary of the board, it shall be by duplicate copies, one of which shall be retained in the office of the board, and the other immediately forwarded by *certified mail, return receipt requested or by registered mail* to the last known business address of the applicant against which the summons, process or pleadings may be directed.

Section 70. KRS 330.130 is amended to read as follows:

Before denying an application for license or before suspending or revoking any license, the board shall set the matter down for a hearing, and at least twenty (20) days prior to the date for the hearing it shall notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing. The licensee or applicant at all hearings shall have the opportunity to be heard in person and by counsel. Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by *certified mail, return receipt requested or by registered mail* to the last known business address of such applicant or licensee. If such applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or whose employ he is about to enter, by mailing notice by *certified mail, return receipt requested or by registered mail* to the auctioneer's last known business address. The hearing on such charges shall be at such time and place as the board shall prescribe.

Section 71. KRS 341.305 is amended to read as follows:

Any employing unit which is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state, and any resident employing unit which exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any civil action, as provided in KRS 341.300 and 341.310. In instituting such an action against any such employing unit the commissioner shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employing unit, and shall be of the same force and validity as if served upon it personally within this state; Provided, That, the commissioner shall forthwith send notice of the service of such process or notice, together with a copy thereof, by *certified or registered mail, return receipt requested*, to such employing unit at its last known address and such return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which such action is pending.

Section 72. KRS 345.080 is amended to read as follows:

(1) If after a reasonable period, but in no event less than thirty days, of negotiations over the terms of a new collective bargaining agreement or modifications in an existing agreement the parties to the negotiations are deadlocked, either party or the parties jointly may petition the board, by *certified mail, return receipt requested or by registered mail*, to initiate fact finding.

(2) Upon receipt of a petition to initiate fact finding, the commissioner shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the commissioner is empowered to utilize his office in an effort to effectuate a settlement

between the parties through mediation and conciliation.

(3) Upon completion of the commissioner's investigation, and if a settlement between the parties has still not been reached, the commissioner shall within five days appoint a qualified and disinterested person as the impartial chairman of a three-man panel to function as the fact finders. In addition to the impartial chairman, the other two members of the panel shall be one member named by the labor organization and one by the employer, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the employer is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact and recommendations for solution of the dispute. The panel shall cause all of its written findings, recommendations and opinions to be served on the employer and labor organization (parties) and same shall be released to the public. Expenses incurred by the three-man panel in this section shall be paid by the parties involved in the labor dispute.

(5) The commissioner may adopt, promulgate, amend and rescind such rules and regulations as he deems necessary and administratively feasible not inconsistent with the provisions of this chapter to carry out his responsibilities over the fact-finding procedures set forth in this section. However, unless the parties agree to extend the time for the hearings, they must be completed with recommendations from the fact-finding panel, within 120 days from the date the petition to initiate the fact-finding procedure was received by the commissioner.

Section 73. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a State Labor Relations Board to assist in resolving disputes between public employers and fire fighters or their labor organization which shall be composed of three members appointed by the Governor, one for a term of two years, one for a term of three years, and one for a term of four years. The Governor shall designate one member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the Governor.

(2) Each member of the board shall have been an elector in this state for at least one year next preceding his appointment. Any member may be removed by the Governor for cause, shown in a public hearing after the accused has been given a copy of the charges made and has had an opportunity to answer such charges. The Governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid \$50 and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses by Labor Relations Board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employees as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter may be served personally, by *certified mail, return receipt requested* or by registered mail or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when *certified* or registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

Section 74. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the department, an operator shall prepare and carry out a method of operation, plan of grading and backfilling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, rolling stones and overburden, water pollution and hazards dangerous to life and property. The plan shall be submitted to the division and the division shall notify the applicant by *certified mail, return receipt requested* or by registered mail within twenty (20) working days after receipt of the plans and complete application if it is or is not acceptable. If the plan is not acceptable, the division shall set forth the reasons for which the plan is not acceptable and it may propose modifications, delete areas or reject the entire plan. Should the applicant disagree with the decision of the division, he may, by written notice, request a hearing conducted by the department in the manner provided by KRS 224.083. The department shall notify the applicant by *certified mail, return receipt requested* or by registered mail within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the department may appeal through the courts as set forth in KRS 224.035.

(2) In addition to the method of operation, grading, backfilling and reclamation requirements of this chapter and regulations adopted pursuant thereto, the operator, consistent with the directives of subsection (1) above, shall be required to perform the following:

- (a) Cover the face of the coal with compacted nonacid bearing and nontoxic materials to a distance of at least four (4) feet above the seam being strip mined or by a permanent water impoundment;
- (b) Bury under adequate fill all toxic materials, roof coal, pyritic coal or shale determined by the division to be acid producing, toxic, or creating a fire hazard;
- (c) Seal off, as directed by regulations, any break through of acid water creating a fire hazard;
- (d) Impound, drain or treat all runoff water so as to reduce soil erosion, damage to agricultural lands and pollution of streams and other waters;
- (e) Remove or bury all metal, lumber, and other refuse resulting from the operation.

(3) No operator shall throw, dump, pile or permit the dumping, piling or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit such materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 75. KRS 350.130 is amended to read as follows:

(1) If any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the division and the department have not been complied with within the time limits set by the division or the department or by this chapter, the division shall cause a notice of noncompliance to be served upon the operator, or where found necessary, the director shall order the suspension of a permit. Such notice or order shall be handed to the operator in person or served by *certified mail, return receipt requested* or by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the division and the department. If the operator has not reached an agreement with the division or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the permit may be revoked by order of the department and the performance bond shall then be forfeited to the division.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture.

(3) An operator whose mining permit has been revoked shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this chapter in respect to former permits issued him, provided, further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator has paid such sum as the department finds is adequate to reclaim such lands. The division shall not issue any additional permits to any operator who has repeatedly been in noncompliance or violation of this chapter, or who has had permits revoked on more than three occasions.

Section 76. KRS 352.510 is amended to read as follows:

(1) In any underground mine before removing any coal or other material or driving any entry or passageway within five hundred feet of any natural gas or petroleum well, or before extending the workings in any mine beneath any tract of land on which such wells are also drilled, or within five hundred feet of any such well or under any tract of land in visible possession of a well operator, the operator shall forward simultaneously to the well operator and to the Department of Mines and Minerals, by *certified mail, return receipt requested* or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine workings and projected mine workings beneath the

tract of land and within five hundred feet of its outer boundaries. The operator may then proceed with his mining operations in the manner indicated on the copy of the map or plan, but if the conduct of his mining operations nearer than five hundred feet to any such well, whether completed or being drilled, or to any proposed well where a derrick is being constructed for drilling, or proposed well will endanger the use of drilling of the well, the well owner or operator affected may within five days from the receipt of the copy of the map by him and the department, file specific objections in writing to the mining operations within less than five hundred feet of the well, and if the objection is so filed the department shall notify the operator of the character of the objections and fix a time and place for a hearing not more than ten days from the end of said five-day period. At the hearing the operator and the well operator, or such of them as are present or represented, shall proceed to consider the objections and agree upon the character and extent of operations to be conducted within less than five hundred feet of the well so as to satisfy the objections raised and meet the approval of the department and, if no agreement can be reached, the department, after a full hearing, shall make a decision defining what coal or clay, if any, is necessary to be left for the safe protection of the use and operation of the well. The decision shall be subject to appeal by either party as provided in KRS 351.040. The department shall keep a complete record of all such hearings.

(2) The mine operator shall, every six months, while mining within five hundred feet of the well, bring up to date the maps and plans required by this section, or file new maps and plans complete to date.

Section 77. KRS 353.050 is amended to read as follows:

Before drilling a well on any tract known to be underlaid with coal-bearing strata the well operator shall have a plat prepared showing the exact location of the proposed well and shall forward a copy by *certified mail, return receipt requested or by registered mail* to the department and at the same time forward copies to the record owner of the coal-bearing strata, unless they are under operation, in which case he shall send a copy to each coal operator operating beds of coal beneath the tract. The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any agent of the coal operator or any superintendent in actual charge of the mine may be considered as a coal operator, and any process agent or other agent or person in charge of the coal for him may be considered the owner, for the purposes of mailing the required copy of the plat.

Section 78. KRS 353.110 is amended to read as follows:

Prior to the abandonment of a well drilled through a workable coal bed the well operator shall notify, by *certified mail, return receipt requested or by registered mail*, the operator or owner of the coal bed and the department of the intention to plug and abandon the well. The notice shall give the number of the well and its location, and fix the time at which the work of plugging and filling will be commenced, the time not to be less than five (5) days after the day on which the notice is received, or in due course should be received, by the department. The department shall prescribe the form of notice to be used. A representative or representatives of the coal operator or owner and of the department may be present at the plugging and filling of the well. Whether or not such representatives appear, the well operator may proceed, at the time fixed, to plug and fill the well. When the plugging and filling have been completed, an affidavit setting forth the time and manner in which the well was plugged shall be made in triplicate by two (2) experienced men who participated in the work. The affidavit shall be made on forms furnished by the department. One (1) copy of the affidavit shall be retained by the well operator, one (1) mailed to each coal operator and each owner, and one (1) to the department.

Section 79. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by *certified mail, return receipt requested or by registered mail* of such lien and the amount thereof, the name and address of the debtor and proper identification of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of \$500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

Section 80. KRS 376.240 is amended to read as follows:

Upon the filing of the statement of lien provided for in subsection (2) of KRS 376.230 in the county clerk's office and the delivery of an attested copy thereof to the public authority making the contract for the improvement of any bridge, public highway or other public property owned by the state or any county or city,

and the filing with the public authority of a signed copy of a letter addressed to the contractor or subcontractor at his address given in the contract, with a post office receipt showing that an attested copy of the lien statement has been sent by the lien claimant to the contractor or subcontractor by *certified mail, return receipt requested or by registered mail*, the claimant shall have a lien superior to any lien subsequently perfected on any unpaid balance due the contractor under the contract of improvement.

Section 81. KRS 376.280 is amended to read as follows:

(1) Any boat or motor vehicle remaining in the possession of a person who has made repairs, performed labor or furnished accessories or supplies therefor and to whom the charges for such repairs, labor, accessories or supplies has been owing for a period of more than thirty days, may be sold to pay such deferred purchase money or charges. The proposed sale shall be advertised pursuant to KRS Ch. 424, and notice thereof shall be sent by *certified mail, return receipt requested or by registered mail* to the owner of the boat or motor vehicle and to any other person known to have any interest therein, addressed to such persons at their last known addresses, at least ten days before the sale is held.

(2) The term "boat," as used in subsection (1) of this section, means any watercraft not enumerated in subsection (1) of KRS 376.360 and sloops having an overall length of forty feet or less.

Section 82. KRS 376.430 is amended to read as follows:

(1) All persons, firms and corporations engaged in the business of repairing radios, phonographs, combinations thereof, automatic music instruments, refrigerators, and any and all portable electrical instruments or appliances shall have a lien upon such articles and appliances for the agreed or reasonable charge for parts, supplies, accessories and labor performed in their repair, said lien to attach upon completion of such repairs.

(2) After completion of repairs the owner shall be notified thereof by *certified mail, return receipt requested or by registered mail*, and if the repaired article be not removed and all charges paid within 30 days after giving the notice, the person, firm or corporation making such repairs may hold such repaired articles and sell same at public sale to pay all agreed or reasonable charges, including charges for storage after notice of completion of repairs, and expenses incidental to advertisement and sale, accounting to the owner for any excess of charges and expenses.

(3) Before any sale of the repaired article the person, firm or corporation making the repairs shall advertise the sale by publication pursuant to KRS Ch. 424.

Section 83. KRS 388.200 is amended to read as follows:

The Administrator of Veterans Affairs, or his successor, is and shall be a party in interest in any proceeding brought under any law of this state for the appointment of a guardian or committee for any minor or mentally incompetent beneficiary or the Veterans Administration on whose account benefits have been paid or are payable by said Veterans Administration, and the said Administrator or his successor is and shall be an interested party in any court proceeding pertaining to or effecting in any manner the administration of the estate of any such beneficiary on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the Veterans Administration, its predecessor or successor. Written notice shall be given by *certified mail, return receipt requested or by registered mail*, unless waived in writing, to the office of the Veterans Administration having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary of the Veterans Administration. Said notice shall be deposited in the mails not less than fifteen days prior to the date of such hearing or other proceedings.

Section 84. KRS 395.016 is amended to read as follows:

When notice of hearing of an application for the appointment of an administrator, administrator with will annexed, guardian, or committee is required hereunder, it shall be given by mailing written notice of the time, place and purpose of such hearing at least five days before said hearing. Proof of such notice shall be by *certified mail, return receipt requested or by registered mail* receipt or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen years of age may waive notice if present in person at the time of hearing of application for appointment of his guardian; provided, however in any estate where the gross amount involved is less than one thousand dollars the court in its discretion may dispense with the requirements of this section relating to notice.

Section 85. KRS 395.430 is amended to read as follows:

(1) Before any curator is appointed for an absent person under subsection (2) of KRS 395.410, a written application requesting the appointment shall be filed with the county clerk. The application shall be verified and shall recite the fact of absence, the last known address of the absent person and the presence of property within this state or other ground requiring the appointment of a curator for the protection of the property or rights of the absent person. The application may be made by any relative, creditor or debtor of

the absent person, or by any person in possession of or interested in any property or rights of the absent person.

(2) Upon the filing with the county clerk of any such application, the clerk shall send by United States *certified mail, return receipt requested or by* registered mail, a letter addressed to the absent person at the last known address as given in the application, stating that such application has been filed. The clerk shall publish pursuant to KRS Ch. 424 a notice to the effect that an application for the appointment of a curator has been made.

Section 86. KRS 431.218 is amended to read as follows:

When a judgment sentencing the defendant to death has been affirmed, the mandate shall fix the day of the execution as the fifth Friday following the date of the mandate of the court. The clerk of the court of Appeals shall transmit either by special messenger, [or] *certified mail, return receipt requested or by* registered mail, a certified copy of the mandate to the proper officer which shall be the authority of such officer to carry the mandate into effect. The officer receiving the copy shall report his action both to the Governor and to the circuit court. If from any cause the execution does not take place on the day appointed in the mandate, the Governor may from time to time appoint another day for execution until the sentence is carried into effect.

Section 87. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the Secretary of State who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the Secretary of State and shall also deliver with the summons an attested copy of plaintiff's complaint. The Secretary of State shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid registered mail *or by certified mail, return receipt requested* and shall bear the return address of the Secretary of State. The sheriff shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 88. KRS 454.270 is amended to read as follows:

(1) Any nonresident operator or owner of any watercraft who accepts the privilege extended by the laws of this state to nonresidents to operate watercraft or have them operated within state shall, by such acceptance and by the operation of such watercraft within this state, make the Secretary of State the agent of himself or his personal representative for the service of process in any civil action instituted in the courts of this state against the operator or owner, or the personal representative of the operator or owner, arising out of or by reason of any accident or collision or damage occurring within this state in which the watercraft is involved.

(2) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering a true copy to the Secretary of State and shall also deliver with the summons an attested copy of plaintiff's complaint. The Secretary of State shall immediately mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid *certified mail, return receipt requested* or by registered mail and shall bear the return address of the Secretary of State. The sheriff shall make the usual return to the court, and in addition the Secretary of State shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the Secretary of State and the action shall proceed as provided in the Rules of Civil Procedure.

(3) The sheriff serving the summons upon the Secretary of State shall pay to him, at the time of service, a fee of two dollars, which shall be taxed as costs in the action. The Secretary shall keep a record of each summons, including the day and hour of service upon him.

(4) The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to appear and defend the action.

(5) This chapter extends the right of service of process upon nonresidents, and does not limit any other provisions for the service of process.

(6) The provisions of this chapter shall apply to any operator or owner of any water craft who is a resident of this state at the time any accident or collision or damage occurs and who thereafter becomes a nonresident.

HR 24, A JOINT RESOLUTION relating to the Kentucky Penal Code.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, the 1972 Regular Session of the Kentucky General Assembly enacted the Kentucky Penal Code to become effective July 1, 1974 and,

WHEREAS, the Kentucky Penal Code has been under study by the Penal Code Commission since the adjournment of the 1972 Regular Session and

WHEREAS, the Penal Code makes complete revision of all Common Law and substantial revision of all Statutory offenses. and,

WHEREAS, the Code as modified by the Study Commission and to be amended by the 1974 Kentucky General Assembly will be the ruling Criminal Law of the Commonwealth and,

WHEREAS, the various Municipal Police Court and County Court Judges will be required to administer the Provisions of the Kentucky Penal Code and,

WHEREAS, it is the opinion of the General Assembly of the Commonwealth of Kentucky that the Judges whose responsibility it will be to administer the Kentucky Penal Code should have available working knowledge of the new Code and,

WHEREAS, it is the Sense of the General Assembly of the Commonwealth of Kentucky that the Commonwealth of Kentucky should make provisions to disseminate information on the New Code to the Judicial officers charged with the responsibility of enforcing the Code,

NOW THEREFORE

BE IT RESOLVED by the General Assembly of the Commonwealth of Kentucky that suitable arrangements be made through the Kentucky Crime Commission and the Legislative Research Commission of the Kentucky General Assembly to inform the various County and Municipal Judges throughout the Commonwealth of Kentucky of the Provisions, and terms of the revised Kentucky Penal Code and that sufficient sums be allocated through the Kentucky Crime Commission to effect the informational program.

SB 11, AN ACT relating to child welfare.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The natural living parents of a child under *eighteen* [twenty-one], if the child is legitimate, and its mother if the child is born out of wedlock, provided that no natural parent need to be made a party defendant in the event the parental rights of such parent have been terminated under KRS 199.600 to 199.630, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one;

(d) If the care, custody and control of the child has been transferred to the department, any other individual, institution or agency, then the department, such other individual, institution or agency shall be named a party defendant.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen years of age and the department, individual, institution or agency has custody of such child, the service of process upon such child shall be had by serving a copy of the summons in such action upon the department, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's natural living parents, if the child is legitimate, or its mother if the child is born out of wedlock, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

SB 25, AN ACT relating to justice's courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 25.740 is amended to read as follows:

In each county having a population of over 250,000 the fiscal court shall, by order entered of record, designate a place within *the county* [each justice's district], at which the justice of the district shall hold all sessions of the justice's court and shall at all times keep all records pertaining to his office. The place so designated shall be located in or as near the courthouse as practicable. The justice, constable, deputy constables and recorders in each district shall have a common office at the place so designated, and no justice, constable, deputy constable or recorder shall have any office or other place within the district, or within the county, for the transaction of official business, and neither of them shall transact any official business elsewhere except as authorized by law. No person shall have or maintain an office at or in conjunction with the common office of the justice, constables and recorders. Each office shall be equipped and kept provided with necessary furniture, clerical and other equipment, record books, stationery and supplies. The expense of equipping and maintaining the offices shall be paid out of the county treasury.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 288.**

Cities: **HB 627.**

Committee Appointments

The following special committee was appointed in connection with **HR 36** to inquire into the authority and activities of the Kentucky Turnpike Authority: Representative Bruce appointed Representatives Rattliff and Lindsay from the Committee on Highways and Traffic Safety; and, Representative Clarke appointed Representatives Hellard and Troop from the Committee on Appropriations and Revenue.

Announcements (continued)

Representative Clarke announced a meeting of the Committee on Appropriations and Revenue at 1:00 P.M. on February 25, 1974, in Room 305.

Adjournment

Representative Swinford moved that the House adjourn in honor of Richard Vander Veen. Agreed.

Representative Swinford moved that the House adjourn until 3:00 P.M., Monday, February 25, 1974.

On the roll call the vote was yeas 54-Arnold, Bennett, Benson, Beshear, Blume, Brewer, R. Brown, Bruce, Clarke, Davis, DeMarcus, Denham, Donnermeyer, Foster, Freeman, Givhan, Graves, Hancock, Head, Hellard, Hughes, Hurst, Imes, Isler, Kafoglis, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mason, May, McBee, McBrayer, McBride, Nett, O'Brien, Paxton, Pearman, Priddy, Quickert, Robinson, Sale, Schmidt, Siemens, Stephens, Swinford, Troop, Van Horn, J. White, Whitfield, Wible, Yates. Nays 3-Holbrook, Holloway, Hopkins.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 25, 1974**THIRTY-EIGHTH LEGISLATIVE DAY**

The House was called to order by Speaker Blume.

Prayer by Reverend Charles N. King, Corinthian Baptist Church, Frankfort.

The roll was called. All present except Representatives Blythe, Hinkle and J. White.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Blythe, Hinkle and J. White.

Representative Hughes moved that the reading of the Journal of February 22, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 658, by Representative Swinford: AN ACT relating to motor vehicles and the regulation thereof.

HB 659, by Representative Swinford: AN ACT relating to weight limits for transporters of industrial materials.

HB 660, by Representatives Van Horn and Imes: AN ACT relating to crimes against persons.

HB 661, by Representatives Richardson, Van Horn and Loudon: AN ACT relating to the Bureau of Highways.

HB 662, by Representatives Blume, Paxton, Harris, Reynolds and Swinford: AN ACT relating to general appropriations to the Legislative Research Commission for the operation, maintenance, support, and functioning of the Legislative Branch of government and its agencies of the Commonwealth of Kentucky.

HB 663, by Representative Robinson: AN ACT relating to the election of water district commissioners.

HB 664, by Representative Yates: AN ACT relating to sand-pits, quarries, excavations, land-fill dumps and the public safety affected thereby.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 64** has been examined and found correctly enrolled. **HB 64** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 57, **HB 14** and **HB 64** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 450**, **HB 502**, **HB 536**, **HB 646**.

Education: **HB 625**, **HB 640**.

Report of Committees

The Committee on Rules reported **HB 332**, **HB 125**, **HB 485** with Committee Amendment attached thereto, **HB 121** with Committee Amendment attached thereto, **HB 168** with Committee Amendment attached thereto, **HB 169**, **HB 393**, **HR 39**, **HR 35**, **HR 49**, **HB 517**, **HB 555**, **HB 96** with Committee Amendment attached thereto, **HB 166**, **HB 462**, **HB 233** with Committee Amendment attached thereto, **HB 571**, **HB 444**, **HB 476**, **HB 238** with Committee Amendment attached thereto, and **HJR 19** have been posted for passage in Orders of the Day, February 26, 1974.

Calendar

HB 456 with Committee Substitute attached thereto, **HB 136** with Committee Substitute attached thereto, **HB 521**, **HB 544**, **HB 368** with Committee Amendment attached thereto, **HB 379** with Committee Substitute attached thereto, **HB 398**, **HB 432**, **HB 439**, **HR 24**, **SB 11** and **SB 25** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative King moved that **HB 126** be made the first order of business in Orders of the Day.

On the roll call the vote was yeas 53-Allen, Bennett, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Clapp, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hardin, Head, Holbrook, Hughes, Hurst, Imes, Isler, King, Kleier, Lewis, Little, Mann, Mason, May, McBrayer, McBride, Morgan, Nett, O'Brien, Pearman, Priddy, Reynolds, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stewart, Stone, Thomas, Turner, Van Horn, Whitfield. Nays 8-Benson, Hancock, Kafoglis, Kenton, Schmidt, Stephens, Vincent, G. White.

The motion that **HB 126** be made the first order of business in Orders of the Day was adopted.

Representative Hancock moved that **HB 126** be laid on the table.

On the roll call the vote was yeas 19-Adams, Benson, Chandler, Crupper, Dawahare, Denham, Foster, Givhan, Hancock, Hellard, Holbrook, Kafoglis, O'Brien, Stephens, Stewart, Stone, Turner, Vincent, G. White. Nays 47-Allen, Bennett, Beshear, Blandford, Blume, Brewer, E. Brown, Bruce, Burch, Clapp, Clarke, Davis, Dietz, Donnermeyer, Dunn, Graves, Hardin, Imes, Isler, Kidd, King, Kleier, Lewis, Little, Mann, Mason, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Paxton, Priddy, Richardson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Thomas, Troop, Van Horn, Watkins, Whitfield, Wible.

The motion that **HB 126** be laid on the table was rejected.

Senate Message

Announcing passage of **SB 150, SB 159, SB 176, SB 181, SB 185, SB 204, SB 215, HB 6, HB 48, HB 204** with Amendment, and **HB 365**.

Representative Hislope moved that the rules be suspended for action on a Resolution. Agreed.

Representative Hislope moved the adoption of the following **HR 61**:

HR 61, A RESOLUTION relating to an interchange on the Cumberland Parkway at Chester View in western Pulaski County.

WHEREAS, the western section of Pulaski County is a heavily populated rural area with no access or egress to the Cumberland Parkway for 18 miles, either to Somerset or to Russell Springs; and

WHEREAS, in addition, there are large sections of Russell and Casey Counties without access to the toll road for distances of 20 miles or more if traveling toward Somerset; and

WHEREAS, this area of Chester View, at the junction of Kentucky 80 and the Cumberland Parkway, is a vortex, or merging center, for traffic from the areas of Nancy, Naomi, Cain's Store, Tick Ridge, Faubush, Delmer, Hislope, Trimble, Sardia, Shepola, Burnetta, Norfleet and other important areas where thousands of travelers are deprived of the use of the Cumberland Parkway and are forced to use antiquated, overcrowded Kentucky 80, whether traveling east or west, for many miles;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky Turnpike Authority give serious consideration to establishing an interchange at Chester View, between Somerset and Russell Springs, Kentucky, for passenger cars only, in order that the Cumberland Parkway may serve its objectives of convenient, safe, reliable transportation.

Agreed.

Orders of the Day

HB 126, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative King moved that the vote on Floor Amendment No. 3 to **HB 126** be reconsidered.

On the roll call the vote was yeas 55-Adams, Allen, Arnold, Bennett, Blandford, Blume, Brewer, E. Brown, Burch, Chandler, Clapp, Davis, Dietz, Donnermeyer, Dunn, Foster, Graves, Hardin, Head, Holbrook, Hughes, Imes, Isler, Kidd, King, Kleier, Lewis, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Nett, Pearman, Priddy, Quickert, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe,

Smith, Stewart, Thomas, Troop, Turner, Van Horn, Watkins, Whitfield, Wible, Yates. Nays 20-Benson, Beshear, R. Brown, Crupper, Dawahare, Denham, Givhan, Hancock, Hellard, Kafoglis, Kareem, Kenton, O'Brien, Robinson, Schmidt, Stephens, Stone, Vincent, Wells, G. White.

The motion that the vote on Floor Amendment No. 3 to **HB 126** be reconsidered was adopted.

On the roll call the vote was yeas 19-Adams, Benson, R. Brown, Crupper, Dawahare, Foster, Givhan, Hancock, Hellard, Hurst, Kafoglis, Kenton, Nett, Robinson, Schmidt, Stephens, Stone, Vincent G. White. Nays 64-Allen, Bennett, Blandford, Blume, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Freeman, Graves, Hardin, Head, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kareem, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, O'Brien, Overstreet, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, Whitfield, Wible, Yates.

The Floor Amendment No. 3 to **HB 126** was rejected.

Representative Imes moved that **HB 126** as previously amended by Committee Amendment No. 1 be placed upon its passage.

On the roll call the vote was yeas 78-Allen, Arnold, Bennett, Beshear, Blandford, Blume, Brewer, E. Brown, Burch, Chandler, Clapp, Clarke, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hardin, Harris, Head, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, Wells, Whitfield, Wible, Yates. Nays 10-Benson, R. Brown, Crupper, Denham, Hancock, Hellard, Stephens, Stone, Vincent, G. White.

HB 126 as amended was passed and the title agreed to.

Representative Imes moved that the vote by which **HB 126** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

Speaker Pro Tempore Paxton presiding.

HB 167 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 90-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 4-Dawahare, Robinson, Turner, G. White.

HB 167 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 167** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 386** and **HR 30** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 210 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kafoglis moved that **HB 210** be placed upon its passage.

On the roll call the vote was yeas 56-Arnold, Beshear, Blandford, Bowles, Brewer, E. Brown, Burch, Chandler, Clarke, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Hellard, Hislope, Hughes, Isler, Kafoglis, Karem, Kenton, King, Lewis, Mann, Mason, Maynard, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Romines, Sharpe, Smith, Stone, Swinford, Thomas, Troop, Vincent, Watkins, Whitfield, Wible. Nays 27-Allen, Bennett, Benson, Crupper, Davis, Foster, Holbrook, Holloway, Hopkins, Hurst, Kidd, Lindsay, Little, Louden, McBee, McGill, Quickert, Robinson, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Turner, Van Horn, Yates.

HB 210 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 210** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 212** and **HB 289** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 310 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HB 310** be placed upon its passage.

On the roll call the vote was yeas 91-Adams, Allen, Arnold, Benson, Behsear, Blandford, Blume, Bowles, Brewer, E. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 0.

HB 310 was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 310** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 343, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved the adoption of the Committee Amendment No. 1 to **HB 343**. Agreed.

Representative Quickert moved that **HB 343** as amended be placed upon its passage.

On the roll call the vote was yeas 66-Bennett, Benson, Beshear, Blandford, Blume, Brewer, E. Brown, Bruce, Chandler, Clarke, Crupper, Davis, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Hislope, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Troop, Turner, Van Horn, Watkins, G. White, Whitfield, Wible, Yates. Nays 19-Adams, Allen, Bowles, R. Brown, Burch, Clapp, Dawahare, Denham, Hellard, Hurst, King, Lindsay, Little, Richardson, Roberts, Sale, Stone, Swinford, Vincent.

HB 343 as amended was passed and the title agreed to.

Representative Quickert moved that the vote by which **HB 343** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 407, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Substitute for **HB 407**. Agreed.

Representative Swinford moved that **HB 407**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 4-R. Brown, Dawahare, Freeman, Stephens.

HB 407, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 407**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 508 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Troop moved that **HB 508** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clarke, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, G. White, Whitfield, Wible, Yates. Nays 0.

HB 508 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 508** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker resumed the Chair.

HB 330 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the following Floor Amendment No. 3 to **HB 330**:

Amend printed copy of House Bill 330 page 1, line 8, after "records." Add "Except such records shall be available to any person so charged."

add new section "(2) Any record of such arrest kept by any consumer reporting agency shall be purged from its files after the time or decision stated in subsection (1)."

add new section "(3) Any violation of subsections (1) or (2) shall be subject to a fine of not more than two hundred dollars (\$200) for each offense."

Agreed.

Representative Benson moved that **HB 330** as amended be placed upon its passage.

On the roll call the vote was yeas 78-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Lewis, Lindsay, Loudon, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Whitfield, Wible, Yates. Nays 5-Brewer, Holbrook, King, Little, Turner.

HB 330 as amended was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 330** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 21**, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

HB 76, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hughes moved the adoption of the Committee Amendment No. 2 to **HB 76**. Agreed.

Representative Hughes moved that **HB 76** as amended be placed upon its passage.

On the roll call the vote was yeas 82-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 3-Allen, DeMarcus, Denham.

HB 76 as amended was passed and the title agreed to.

Representative Hughes moved that the vote by which **HB 76** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 305 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the following Floor Amendment No. 1 to **HB 305**:

Amend printed copy of House Bill 305 page 3, line 7, by inserting after the word "*thereof*," the word "*or*"

and on page 3, lines 7, 8, and 9, by deleting the words "*the Commonwealth of Kentucky or any agency or instrumentality thereof; or (c)*"

and on page 3, line 10, by inserting after the word "*America*" the words "*or by the Commonwealth of Kentucky*"

and on page 3, line 22, by inserting after the word "*thereof*;" the word "*or*"

and on page 3, lines 22 and 23, by deleting the words "*the Commonwealth of Kentucky or any agency or instrumentality thereof; or (c)*"

and on page 3, line 25, by inserting after the word "*America*" the words "*or by the Commonwealth of Kentucky*"

and on page 15, lines 14 and 15, by inserting the following new subsection:

"(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto,"

Agreed.

Representative Kidd moved that **HB 305** as amended be placed upon its passage.

On the roll call the vote was yeas 84-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 1-Allen.

HB 305 as amended was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 305** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 520 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stephens moved that consideration of **HB 520** be deferred until March 1, 1974, and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 7-Arnold, Hancock, Kafoglis, Stephens, Stone, Swinford, Vincent. Nays 88-Adams, Allen, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Thomas, Troop, Turner, Van Horn, Watkins, Wells, G. White, Whitfield, Wible, Yates.

The motion that consideration of **HB 520** be deferred was rejected.

Representative Kenton moved that **HB 520** be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee,

McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 0.

HB 520 was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 520** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 6**, **HB 48**, and **HB 365** have been examined and found correctly enrolled. **HB 6**, **HB 48**, **HB 365** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative Swinford moved that consideration of **SB 87** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative Swinford moved that the House concur in the following Senate Amendment to **HB 164**:

Amend printed copy of House Bill 164 page 2, line 20, by bracketing the words "be allowed to"

on page 2, line 21, by bracketing the word "certified".

Agreed.

Representative Swinford moved that **HB 164** as amended be placed upon its passage.

On the roll call the vote was yeas 78-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, E. Brown, R. Brown, Bruce, Chandler, Clarke, Crupper, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, G. White, Wible, Yates. Nays 0.

HB 164 as amended was passed and the title agreed to.

Announcements

The following members filed Floor Amendments to bills: Representative Lindsay, Floor Amendment No. 1 to **HB 68**; Representative Stephens, Floor Amendment No. 1 to **HB 125**; Representative Hopkins, Floor Amendment No. 3 to **HB 100**.

The Speaker moved that the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, and posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 665, by Representative King: AN ACT relating to changing the classification of the City of Independence in Kenton County.

HB 666, by Representatives Wible and Nett: AN ACT relating to postsecondary occupational education.

HB 667, by Representatives Nett and King: AN ACT relating to the rehabilitation of intoxicated persons.

HB 668, by Representatives Bruce, Whitfield and Van Horn: AN ACT relating to tobacco.

HB 669, by Representatives Priddy, Dunn, Bennett, Benson, Chandler, Guenther, Karem, Kidd, Kleier, Maynard, O'Brien, and Romines: AN ACT relating to legal representation for the Workmen's Compensation Board.

HB 670, by Representatives Burch and Hughes: AN ACT relating to fire protection districts and voluntary fire protection districts.

HB 671, by Representatives Loudon and Mason: AN ACT relating to police courts.

HB 672, by Representatives Donnermeyer, Burch, Dietz, Lewis, King, Mann, Priddy, Siemens and Thomas: AN ACT relating to the payment of wages.

HB 673, by Representative Swinford: AN ACT relating to forestry.

HB 674, by Representative Schmaedecke and Dietz: AN ACT relating to city attorneys and prosecuting attorneys in a city of third class.

HB 675, by Representatives Van Horn and Kenton: AN ACT relating to civil service and pension systems in urban county governments.

HR 65, by Representatives Romines, Pearman, Siemens, and Watkins: A RESOLUTION requesting the Congress of the United States to authorize and direct the establishment of a National Cemetery at Fort Knox, Kentucky.

HR 66, by Representatives Bruce, Swinford, Lewis, Rattliff, Van Horn, and Whitfield: A RESOLUTION memorializing the United States Department of Agriculture and the Justice Department to study the competitive market structure of tobacco companies.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 655**.

Appropriations and Revenue: **HB 662**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 569**

State Government: **HR 42, HR 57, HB 552, HB 220, HR 53, HR 44, SB 153, SB 155, SB 69.**

Labor and Industry: **HB 614, HB 618, HB 622, HB 624, HB 632, HB 639, HB 641.**

Counties and Special Districts: **HB 253, HB 430, HB 494, HB 586.**

Education: **HB 640**

Appropriations and Revenue: **HB 584, HB 662.**

Senate Message

Announcing passage of **SB 203, SB 230.**

Announcements (continued)

Representative Harris requested that his name be added as a co-sponsor of **HB 613.**

Representative Priddy announced the Committee on Labor and Industry meeting for February 26, 1974, 10:00 A.M., Room 305.

Representative Kleier announced Jefferson County Caucus at 10:00 A.M., February 26, 1974.

Adjournment

Representative Swinford moved that the House adjourn until 2:00 P.M., Tuesday, February 26, 1974.

On the roll call the vote was yeas 53-Adams, Arnold, Bennett, Benson, Beshear, Blume, R. Brown, Chandler, Crupper, Davis, Dietz, Dunn, Foster, Givhan, Hardin, Harris, Head, Hellard, Holbrook, Hughes, Hurst, Kafoglis, Kenton, King, Kleier, Lindsay, Little, Loudon, Mason, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Stephens, Swinford, Troop, Van Horn, Watkins, Wible, Yates. Nays 7-Allen, Freeman, Graves, Karem, Schmidt, Stone, Vincent.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 26, 1974

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Donnermeyer and Hinkle.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Donnermeyer and Hinkle.

Representative Hughes moved that the reading of the Journal of February 25, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 676, by Representative Hopkins: AN ACT relating to county and circuit court clerks.

HB 677, by Representative E. Brown: AN ACT relating to liquified petroleum gas.

HB 678, by Representatives Yates and Holloway: AN ACT relating to designating Kentucky Derby Day as a state holiday.

HB 679, by Representatives Quickert, Hughes, Bennett, Benson, Blume, Chandler, Graves, Guenther, Hellard, Karem, Kenton, Kidd, Kleier, Maynard, McBride, McGill, Nett, Priddy, Romines and Siemens: AN ACT relating to transit authorities.

HB 680, by Representatives Romines, Little and Siemens: AN ACT relating to credit information.

HB 681, by Representative Troop: AN ACT relating to criminal and penal jurisdiction of police court.

HB 682, Representatives Harris and Dietz: AN ACT relating to fireprotection personnel.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 164** has been examined and found correctly enrolled. **HB 164** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 6, **HB 48**, **HB 365**, and **HB 164** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 668**, **HB 673**, **HR 66**.

Appropriations and Revenue: **HB 656**.

Banking and Insurance: **SB 159**, **SB 176**.

Cities: **HB 665**, **HB 671**, **HB 674**, **HB 675**, **HCR 63**, **SB 203**.

Counties and Special Districts: **HB 663**, **HB 670**, **SB 215**.

Education: **HB 666**, **HJR 64**.

Health and Welfare: **HB 652**, **HB 653**, **HB 657**, **SB 204**.

Highways and Traffic Safety: **HB 658**, **HB 659**, **HB 661**, **SB 208**.

Judiciary: **HB 660**, **HB 667**.

Labor and Industry: **HB 664**, **HB 669**, **HB 672**.

State Government: **HB 654**, **HCR 62**, **HR 65**, **SB 150**, **SB 181**, **SB 185**, **SB 230**.

Report of Committees

The Committee on Labor reported **HB 618**, **HB 624**, **HB 632**, **HB 641**, and **HB 639** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 618, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 342 is created to read as follows:

An employer shall notify any employee who has received an injury or illness of the statute of limitations applicable to the injury or illness, not later than thirty days prior to the expiration date.

Section 2. KRS 342.185 is amended to read as follows:

No proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless a claim for compensation with respect to such injury shall have been made within two years after the date of the accident, or in case of death, within two years after such death, whether or not a claim has been made by the employee himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by some one in his behalf. If payments of compensation as such have been made voluntarily the making of a claim within such period shall not be required, but shall become requisite *within one year* following the suspension of such voluntary payments *or within two years of the date of the accident, whichever is later*.

HB 624, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 341 is created to read as follows:

The commissioner shall designate an office in each county at which workers may apply for unemployment compensation benefits. This office shall be open at least one day per week.

HB 632, AN ACT relating to the payment of wages to employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.020 is amended to read as follows:

Every corporation for pecuniary profit doing business in this state shall, as often as semimonthly, pay to each of its employees all wages or salary earned by him to a day not more than eighteen (18) days prior to the date of that payment *and shall pay all wages or salary of employees employed on an hourly rate, on a weekly basis, earned by him to a day not more than ten days prior to the date of that payment*. Any employee who is absent at the time fixed for payment, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time upon six (6) days' demand. Any employee who leaves or is discharged from his employment shall be paid in full following his dismissal or voluntary leaving at any time upon three (3) days' demand. No corporation subject to this section shall, by any means, secure exemption from it. Every such employee shall have a right of action against any such corporation for the full amount of his wages due on each regular pay day.

HB 641, AN ACT relating to prevailing wages for construction of public works.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor; and

(b) "Department" means department of labor.

[(2) KRS 337.050 and 337.060 shall not apply to employers and employees subject to the provisions of the federal railway labor act, the federal safety appliance act, the federal railroad mediation act, the interstate commerce commission or the Kentucky public service commission, nor to hospitals or charitable institutions, nor to employees of the state or United States or political subdivisions of either, nor to farming or work performed in homes, residences, restaurants, hotels and apartment houses such as cleaning, waiting on tables, washing dishes, cooking, answering calls of guests and waiting upon them and general house, restaurant or hotel work and outside salesmen.]

(2)/[(3)] As used in KRS 337.210 to 337.360 unless the context requires otherwise:

(a) "Fair wage" means a wage fairly and reasonably commensurate with the value of the service or class of service rendered;

(b) "Minor" means a person of either sex under the age of eighteen (18) years;

(c) "Occupation" means an industry, trade, or business or branch thereof or class of work therein in which employees are gainfully employed, but does not include domestic service in the home of the employer or labor on a farm;

(d) "Oppressive and unreasonable wage" means a wage that is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health;

(e) "Woman" means a female of eighteen (18) years or over;

(f) "Employer" is any person who employs an employee and includes any person acting directly or indirectly in the interest of an employer in relation to an employee; and

(g) "Employee" is any person employed by or suffered or permitted to work for an employer.

[(4) KRS 337.210 to 337.360 shall not apply to any person subject to regulation by the public service commission.]

(3)/[(5)] As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than \$500;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent skilled laborers, workmen, *and* mechanics[, helpers, and apprentices] to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, *and* mechanics[, helpers, and apprentices] may be obtained in sufficient number to perform the work.

2. "Locality" with respect to contracts advertised or awarded by the Department of *Transportation* [Highways] of this state shall be determined by the *Secretary of Transportation* [Commissioner of Highways]. He may designate any number of counties as constituting a single locality. He may also designate all counties of the commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality.

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work constructed under contract with *any public authority* [this state, or any department or agency thereof, or political subdivision in the state].

(4)/[(6)] In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, *workmen*, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS Chapter 337.505 is amended to read as follows:

For the purpose of KRS 337.505 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, *and* mechanics[, helpers, and apprentices] engaged in the construction of public works within the commonwealth of Kentucky, means the sum of:

(1) The basic hourly rate paid or being paid subsequent to the labor commissioner's most recent wage determination to the majority of laborers, workmen, *and* mechanics[, helpers, and apprentices] employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such rate shall be determined by the commissioner in accordance with paragraphs (a), (b),

and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the basic hourly rate of pay paid to the greater number: Provided, such greater number constitutes 30 per cent of those employed; or in the event that less than 30 per cent of those employed receive the same rate, then the basic hourly rate of pay shall be the average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of such workers, and

(2) An additional amount per hour equal to the hourly rate of contribution irrevocably made or to be made by an employer on behalf of employees within each classification of construction to a trustee or to a third person pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the employees affected, for the following fringe benefits: Medical or hospital care, pensions on retirement, death compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the employer is not required by other federal, state or local law to provide any of such benefits: Provided, said additional amount may, at the discretion of the employer, be paid either in cash to the employee or by contributions for fringe benefits, or partly in cash and partly by such contributions, it being the intention of this subsection to recognize fringe benefits as a part of the prevailing wage rate where made in accordance with this subsection.

Section 3. KRS Chapter 337.510 is amended to read as follows:

(1) Before advertising for bids or entering into any contract for construction of public works, every public authority shall notify the department in writing of the specific public work to be constructed, and shall ascertain from the department the prevailing rates of wages *for each classification* of laborers, workmen, *and* mechanics[, helpers, and apprentices] for the class of work called for in the construction of such public works in the locality where the work is to be performed. This schedule of the prevailing rate of wages shall include a statement that it has been determined in accordance with the provisions of KRS 337.505 to 337.550 and shall be attached to and made part of the specifications for the work and shall be printed on the bidding blanks and made a part of every contract for the construction of public works.

(2) The public authority advertising and awarding the contract shall cause to be inserted in the proposal and contract a stipulation to the effect that not less than the prevailing hourly rate of wages as determined by the commissioner shall be paid to all laborers, workmen, *and* mechanics[, helpers, and apprentices] performing work under the contract. It shall also require in all the contractor's bonds that the contractor include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract. It shall be the duty of the public authority awarding the contract, and its agents and officers, to take cognizance of all complaints of all violations of the provisions of KRS 337.505 to 337.550 committed in the course of the execution of the contract, and when making payments to the contractor becoming due under the contract, to withhold, and retain therefrom all sums and amounts due and owing as a result of any violation thereof. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding authority, on account of the subcontractor's failure to comply with the terms thereof and if payment has already been made to him, the contractor may recover from him the amount of the penalty in a suit at law.

Section 4. KRS Chapter 337.512 is amended to read as follows:

(1) No public official, authorized to contract for or construct public works shall fail, before advertising for bids or undertaking such construction, to ascertain from the commissioner the prevailing rates of wages as provided in KRS 337.505 to 337.550.

(2) No member of a public authority authorized to contract for or construct public works shall vote for the award of any contract for the construction of such public works, or vote for the disbursement of any funds on account of the construction of such public works, unless such public authority has first ascertained from the commissioner the prevailing rates of wages of laborers, workmen, *and* mechanics[, helpers, and apprentices] for the classes of work called for by such public works in the locality where the work is to be performed and the determination of prevailing wages has been made a part of the proposal specifications and contract for such public works.

Section 5. KRS Chapter 337.520 is amended to read as follows:

(1) The commissioner shall make initial determinations and current revisions thereof of schedules of rates of prevailing wages, of the amount of fringe benefits included therein as defined in KRS 337.505, and the number of hours applicable thereto. The commissioner shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of KRS 337.505 to 337.550 and to prevent the circumvention or evasion thereof. Such rules and regulations may include but shall not be limited to a provision that each contractor and subcontractor shall furnish weekly a sworn affidavit with respect to the wages paid each employee during the preceding week and such other relative information and in such form as the commissioner may require. No rule or regulation or revisions thereof shall be issued by the commissioner except upon reasonable notice to, and opportunity to be heard by, any

.interested person.

(2) The commissioner shall require the filing of all wage contracts of all laborers, workmen, *and* mechanics[, helpers, and apprentices] in this state which have been agreed to between bona fide organizations of labor and an employer or associations of employers. Such contracts shall be filed within ten (10) days after they are signed.

(3) The commissioner shall have the authority to determine schedules, and current revisions thereof, of the rates of prevailing wages as defined in KRS 337.505, but in no case shall the commissioner determine wages to be paid for a legal day's work to laborers, workmen, *and* mechanics[, helpers, and apprentices] engaged in the construction of public works at less than the prevailing wages paid in the localities. The commissioner in determining what rates of wages prevail shall consider the following criteria:

(a) Wage rates paid on previous public works constructed in the localities. In considering such rates the commissioner shall ascertain, insofar as practicable, the names and addresses of the contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wage rates paid each worker who was engaged in the construction of these projects.

(b) Wage rates previously paid on reasonably comparable private construction projects constructed in the localities. In considering such rates the commissioner shall ascertain, insofar as practicable, the names and addresses of the contractors including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wage rates paid each worker who was engaged in the construction of these projects.

(c) Collective bargaining agreements or understandings between bona fide organizations of labor and their employers located in the commonwealth of Kentucky which agreements apply or pertain to the localities wherein the public works are to be constructed.

(4) The wage rates to be used by the public authority in a contract for the construction of public works shall be the prevailing wage as of the date the public works project is advertised and offered for bid. If contracts are not awarded within ninety (90) days after the date of offering for bid the public authority shall ascertain the prevailing rate of wages from the department before the contract is awarded. The schedule or scale of prevailing wages shall be incorporated in and made a part of each contract.

(5) *The commissioner shall have the authority to make regulations authorizing the employment of apprentices and trainees in skilled trades at wages lower than the applicable prevailing wage.*

Section 6. KRS Chapter 337.522 is amended to read as follows:

(1) The commissioner or his authorized representative shall conduct a public hearing for the purpose of making initial determinations, or current revisions thereof, of a prevailing wage schedule for the construction of public works pertaining to a locality. The commissioner shall within 90 days of the receipt of the transcript of a hearing publish his wage determination. Such a hearing shall be conducted in the locality after notice has been given as provided in subsection (3) of this section.

(2) A public authority or any interested person may request and shall be granted an additional hearing *solely* for the purpose of having considered a *review of the commissioner's determination* [revision] of the prevailing wage schedule for the construction of public works in the locality; after notice has been given as provided in subsection (3) of this section, such hearing shall be conducted in the locality by a prevailing wage review board consisting of one member representing employers in the construction industry, one member representing labor in the construction industry, and one member appointed by the public authority requesting the hearing. The member appointed by the public authority shall reside in the locality wherein the public works are to be constructed. The members of the board representing employers in the construction industry and labor in the construction industry shall be appointed for periods of not more than four years by the Governor from a list of prospective members recommended by bona fide associations representing the construction industry and bona fide labor organizations representing workers employed in the construction industry, and such members shall serve on the board for all hearings during their tenure. Prevailing wage review boards shall have the authority to revise prevailing wage schedules for the construction of public works, however, such revisions shall be governed by the same criteria and regulations governing wage determinations of the commissioner. A revision of a prevailing wage schedule for the construction of public works shall require a vote of a majority of the members. The members of a prevailing wage review board shall receive their actual necessary expenses incurred in carrying out their duties and such expenses shall be paid out of the General Fund of the Commonwealth of Kentucky.

(3) Notice of hearings as required in subsections (1) and (2) of this section shall be given by advertising one time in the newspaper having the largest circulation in the locality, and such advertisement shall be run not less than ten nor more than twenty days prior to the date of the hearing. The advertisement shall set forth all pertinent information of the hearing regarding the time, place, and purpose of the hearing.

Section 7. KRS Chapter 337.530 is amended to read as follows:

(1) Where a prevailing rate of wages has been determined and prescribed, the contract executed between a public authority and the successful bidder or contractor shall contain a provision requiring the

successful bidder and all of his subcontractors to pay not less than the rate of wages so established. The successful bidder or contractor and all subcontractors shall strictly comply with these provisions of the contract.

(2) All contractors and subcontractors required by KRS 337.505 to 337.550 and by contracts with any public authority to pay not less than the prevailing rate of wages, shall pay such wages in legal tender without any deductions. These provisions shall not apply where the employer and employee enter into an agreement in writing at the beginning of or during any term of employment covering deductions for food, sleeping accommodations or any similar item if this agreement is submitted by the employer to the department and is approved by the department as fair and reasonable. All contractors and subcontractors affected by the terms of KRS 337.505 to 337.550 shall keep full and accurate payroll records covering all disbursements of wages to their employees to whom they are required to pay not less than the prevailing rate of wages. Such records shall indicate the hours worked each day by each employee in each classification of work and the amount paid each employee for his work in each classification. They shall be open to the inspection and transcript of the commissioner or his authorized representative at any reasonable time, and every employer shall furnish to the commissioner or his authorized representative on demand a sworn statement of them, and shall comply with all regulations issued by the commissioner. The commissioner may require the statement to be upon forms prescribed or approved by him. These payroll records shall not be destroyed or removed from this state for one (1) year following the completion of the improvement in connection with which they are made.

(3) Each contractor and subcontractor subject to the provisions of KRS 337.505 to 337.550 shall post and keep posted in a conspicuous place or places at the site of the construction work a copy or copies of prevailing rates of wages and working hours as prescribed in the contract with the public authority, showing the rates of wages prescribed and the working hours for each class of laborers, workmen, and mechanics[, helpers, and apprentices] employed by him in the work of constructing the public works provided for in the contract with the public authority.

(4) Every employer shall permit the commissioner or his authorized agents to question any of his employees at the site of the public work and during work hours in respect to the wages paid, hours worked and duties of such employee or other employees.

Section 8. KRS Chapter 337.540 is amended to read as follows:

(1) Every public authority, before advertising for bids, shall include with the schedule of wages a provision that no laborer, workman, or mechanic[, helper, assistant or apprentice] shall be permitted to work more than eight (8) hours in one (1) calendar day, which shall constitute a legal day's work; nor more than forty (40) hours in one (1) week, which shall constitute a legal workweek, except in cases of emergency caused by fire, flood or damage to life or property. This limitation of work hours shall be made a part of the specifications for the work and printed on bid blanks where the work is done by contract and shall be incorporated as a part of each contract.

(2) No laborer, workman, or mechanic[, helper, assistant or apprentice] shall be permitted to work more than eight (8) hours in any one (1) calendar day, nor more than forty (40) hours in any one (1) week, except in cases of emergency caused by fire, flood, or damage to life or property, on the construction of public works which is being constructed under contract with any public authority.

(3) Any laborer, workman, or mechanic[, helper, assistant or apprentice] worked in excess of eight (8) hours per day or forty (40) hours per week, except in cases of emergency shall be paid not less than one and one-half (1 1/2) times the basic hourly rate of pay as defined and fixed under this chapter for all overtime worked, and each contract with any public authority for the construction of public works shall so provide.

(4) The determination of exception provided in this section of when an emergency exists shall be made by the public authority letting the contract.

Section 9. KRS Chapter 337.550 is amended to read as follows:

(1) Any laborer, workman, or mechanic[, helper, or apprentice] employed on public works may file a complaint of any violation of any provision of KRS 337.505 to 337.550 with the department. The department shall assist him in the collection of claims of wages due him and shall also assist to the fullest extent in the administration and enforcement of KRS 337.505 to 337.550.

(2) A laborer, workman, or mechanic[, helper, or apprentice] may by civil action recover any sum due him as the result of the failure of his employer to comply with the terms of KRS 337.505 to 337.550. The commissioner may also bring any legal action necessary to collect claims on behalf of any or all laborers, workmen, or mechanics[, helpers, or apprentices]. No employer shall take any punitive measure or action against an employee because such employee has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under KRS 337.505 to 337.550. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action.

Section 10. KRS Chapter 337.515 is repealed.

HB 639, AN ACT relating to collective bargaining, arbitration and grievance procedures between boards of education and associations representing certificated personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 160 is created to read as follows:

It is the purpose of this Act to improve the quality of education within school systems in the Commonwealth of Kentucky through guaranteeing to associations representing certificated school personnel the right of bargaining and negotiating with boards of education.

Section 2. A new section of KRS Chapter 160 is created to read as follows:

As used in this Act unless the context requires otherwise.

(1) "Board" means the board of education of a school district as defined in KRS 160.160.

(2) "Certificated person" or "certificated personnel" means those persons, other than temporary substitutes, holding positions requiring certificates referred to in KRS 161.020 through 161.120 who are below the rank of superintendent, deputy superintendent, associate superintendent, and assistant superintendent and employed by the boards.

(3) "Association" means an organization composed of personnel holding positions for which certificates are required. The certificated personnel who are members of such "association" may be all "teachers," all "administrators," or both.

(4) "Members" or "membership" means only those persons belonging to an association who are certificated personnel and who are in good standing with the association.

(5) "Administrator" means a certificated person who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, or school business administrator, or who holds a position in which he evaluates or supervises teachers or recommends personnel for employment or discharge.

(6) "Teacher" means all certificated personnel who are not administrators.

(7) "Administrator unit" means certificated personnel who are members of a section or department of an association that has requested separate bargaining rights pursuant to subsection (4) of Section 3 of this Act, the members of such section or department being all administrators.

(8) "Teacher unit" means certificated personnel who are members of a section or department of an association that has requested separate bargaining rights pursuant to subsection (4) of Section 3 of this Act, the members of such section or department being all teachers.

(9) "Collective bargaining" or "bargaining" means the process established by this Act.

(10) "Grievance" means a claim based upon an event or condition which affects the interpretation, meaning, or application of the provisions of the collective bargaining agreement between the board and the association.

(11) "Aggrieved person" means the certificated person or persons making the claim.

(12) "Party in interest" means the certified person or persons making the claim or any person who might be required to take action or against whom action might be taken in order to resolve the claim.

Section 3. A new section of KRS Chapter 160 is created to read as follows:

(1) On or after the effective date of this Act in each school district where at least one association exists, the board shall accept written requests for recognition from associations in the district seeking to be exclusive representative of all certificated personnel, all teachers, or all administrators in the district for purposes of collective bargaining.

(2) Associations seeking recognition by the board must submit as a part of the written request for recognition, an affidavit stating:

(a) That the request is on behalf of the membership of the association. If the request is from an association composed of both teachers and administrators, the affidavit shall state whether or not separate bargaining rights are desired by a teacher unit, an administrator unit, or both, as set forth in subsection (3) of this section.

(b) That to the best of its knowledge and belief, the association represents more than fifty percent of certificated personnel or teachers or administrators, as the case may be, employed within the district by the board.

(c) The total number of members of the association, as verified by a certified public accountant.

(d) That the total number of members claimed is in good standing with the association.

(e) That the members in good standing voted to determine whether or not the association should request the board to recognize the association as the exclusive representative of all certificated personnel, all teachers, or all administrators in the district for purposes of collective bargaining.

(f) That the results of the vote indicated that a majority of the members voted in favor of said representation.

(3) Teachers and administrators may bargain through separate associations or they may bargain jointly or separately through a single association to which all certificated personnel are eligible to belong.

(4) If separate bargaining rights are desired within an association to which all certificated personnel are eligible to belong, a teacher unit, an administrator unit, or both may be organized within the structure of the association. The association shall in such event include in its request for recognition a statement informing the board that a teacher unit, an administrator unit, or both shall require separate bargaining rights and that the basis for separate bargaining rights is a majority vote of members of the teacher unit or the administrator unit or both.

(5) Upon receipt of a request for recognition the board shall notify the chief elected officer of each association in the school district of the request and shall grant such associations the right to challenge any request prior to recognition of an association by the board. Challenges must be submitted within fifteen calendar days from receipt of notice from the board and such challenge must be in the form of a request. Said request shall be accompanied by either a verified statement by a Certified Public Accountant listing the total number of members in the challenging association, the fact that said members are in good standing and the fact that they constitute 15% of the certificated personnel in the challenged unit or accompanied by a petition requesting said secret ballot election signed by 25% of the certificated personnel in the unit. Even though the original request for recognition is for recognition for both a teacher unit and an administrator unit, the challenge may be directed to one or the other.

(6) If the board receives only one request for recognition, the board shall, at a time no later than its next regular meeting, issue a written statement of recognition to the association, establishing such association as the exclusive representative of all certificated personnel, all teachers, or all administrators in the district, as the case may be, for purposes of professional negotiation; provided, however, that in the event the board in good faith questions whether or not the association represents more than fifty percent of certificated personnel, or teachers or administrators, as the case may be, employed within the district by the board, the board shall not be required to issue its statement of recognition to the association unless and until such percentage representation has been verified in the manner provided in Section 4 of this Act, and when a teacher unit or an administrator unit qualifies for separate negotiating rights within an association, the written statement of recognition to the association shall so state.

(7) If the board receives a challenge and request for secret ballot election for recognition of an association as representative of all certificated personnel in the teacher unit or administrator unit or both, the board shall verify that the challenge is accompanied by the requisite number of members or signatures in the challenged unit only as required under subsection (5) above. Said verification shall be completed within a period of 7 days after the receipt of challenge. Upon completion of the verification, the board shall fix a date for the secret ballot election which date shall not be later than 30 days from the date of completion of verification. Said election shall be conducted during school hours on school premises in accordance with regulations promulgated by the Superintendent of Public Instruction who shall be guided in said promulgation by the standards for the conduct of elections followed by the American Arbitration Association and his rules so promulgated shall not be in conflict therewith. The cost of said secret ballot election shall be borne equally by the participating associations whose names shall be listed on the ballot in alphabetical order together with a separate listing for "No association". If more votes are cast for no association than for any balloted association, no association shall be recognized as exclusive representative of the certificated personnel in the unit and no association shall be permitted to petition for such recognition, regardless of membership, for a period of 24 months from the date on which said secret ballot election was held. In the event one of the associations listed on the ballot has a plurality of ballots cast, that association shall be certified as the exclusive representative for all of the certificated personnel in the unit and shall remain the exclusive representative for a period of 36 months from June 30 following the date of said election and no other qualification shall be required for such period.

(8) Written statements of recognition shall become part of the official minutes of the board.

Section 4. A new section of KRS Chapter 160 is created to read as follows:

(1) A board's recognition of an association for purposes of collective bargaining shall be for a period not to exceed three years, beginning and ending on June 30. The term of a collective bargaining agreement shall be negotiated by a board and an association, but in no case shall the term of the agreement extend beyond the period of recognition. An association may request renewal of recognition within sixty calendar days before termination of the existing recognition agreement. Upon receipt of said request for renewal, the board shall notify all other associations within the district as in subsection (5) of Section 3 of this Act. If a request for renewal of recognition is submitted, it shall include as a part thereof an affidavit containing the same information as required by subsections (2), (3), and (4) of Section 3 of this Act. If no challenges to the request for renewal are received by the board, the board shall at a time no later than seven (7) days or not later than its next regular meeting, whichever is earlier, issue a written statement of recognition. If the

request for renewal is challenged, the board shall follow procedures set forth in subsections (7) and (8) of Section 3 of this Act.

(2) Thereupon, the board shall issue a statement of recognition to the proper association as set forth in subsection (1) of this section and subsection (7) and (8) of Section 3 of this Act.

Section 5. A new section of KRS Chapter 160 is created to read as follows:

(1) The association and board shall appoint bargaining teams for purposes of meeting and bargaining.

(2) The superintendent of schools shall comply with all reasonable requests from bargaining teams for records and information relating to subjects under negotiation and proposed subjects of bargaining. Public records and documents supplied by the superintendent to one of the bargaining teams shall also be supplied to the other.

(3) Agreements between the recognized association and the board that have been reached through bargaining shall be in written form and subscribed to by the duly authorized representatives of the board and the association. All such agreements shall become part of the official minutes of the board and the collective bargaining agreement.

Section 6. A new section of KRS Chapter 160 is created to read as follows:

(1) The recognized association and the board shall, if either party so requests, discuss and bargain with each other concerning policies relating to working conditions, salaries and salary schedules, employee benefits, and personnel policies relating to transfer of personnel.

(2) The association and the board shall, if either party so requests, meet and hold good faith discussions on curriculum, inservice training, all other personnel policies, and other matters which affect the quality of the educational program. Such matters may be bargained if mutually acceptable to the association and the board.

(3) The association and the board shall, at all times, bargain with each other in good faith. A sincere effort shall be made by both parties to overcome obstacles to agreement in the bargaining process.

Section 7. A new section of KRS Chapter 160 is created to read as follows:

(1) Collective bargaining in a school district shall occur when the recognized association or the board requests same. Such bargaining shall be completed within ninety calendar days of the original request or by an earlier date if agreed to by the recognized association and the board. If agreement upon the matter being negotiated has not been reached by the end of the ninety day period, or by the date agreed upon by the association and the board, an impasse shall be presumed to exist, and the procedure for resolving an impasse as outlined in Section 8 of this Act shall be employed. Either party may, when acting in good faith, declare an impasse to exist at any stage of bargaining.

(2) Once a matter has been bargained that same matter shall not be subject to bargaining for a period of twelve months from the date bargaining commenced. However, the parties may mutually agree to reopen negotiation on any matter at any time.

Section 8. A new section of KRS Chapter 160 is created to read as follows:

(1) Upon declaration of impasse by either party or upon failure of the parties to complete bargaining before deadlines set forth in this Act and in the collective bargaining agreement, the following procedure for resolution of the impasse shall be employed: Within seven calendar days the board and the recognized association shall agree upon and appoint a mediator. If at the termination of the above-mentioned time period a mediator cannot be agreed upon and appointed, the party that declared the impasse shall immediately notify the Superintendent of Public Instruction, who within ten calendar days of receipt of said notification shall appoint a mediator. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement; provided, that, the mediator may, without the consent of both parties, make findings of fact or recommend terms of settlement. Unless both parties agree to a longer period, said mediator shall have fifteen calendar days in which to assist the parties in reaching agreement on the matter that has led to impasse.

(2) If the mediator's efforts do not result in the parties reaching agreement, the second step for resolving impasse shall commence in the following manner: The board and the recognized association shall within ten calendar days from the expiration of the mediator's working period each select one person to serve on a fact finding committee. A third person who shall serve as committee chairman shall be selected jointly by the other two committee members. No committee member shall be a member of the board or the association. If within ten calendar days from their appointment the two committee members are unable to agree upon the choice of a chairman, the party that declared the impasse shall so notify the circuit court of the county in which the board is located, which shall appoint a chairman within ten calendar days of receipt of notification. The committee members shall investigate, make findings of fact, and after consultation and vote, recommend a solution. The written findings and recommendations of the committee shall be presented to the parties within thirty calendar days from the time the chairman is appointed. Such recommendations shall be advisory only.

(3) The board shall adopt or reject the recommendations of the fact finding committee at its next regular meeting or by a date agreed to by the recognized association and the board.

(4) It shall be unlawful for the recognized association to cause or authorize any of its members to take part in a strike, slowdown, walkout, sickout, demonstration or any other action disrupting the orderly and continuous conduct of the public schools, and it shall be further unlawful for any teacher or administrator to take part in a strike, slowdown, walkout, sickout, demonstration or any other action disrupting the orderly and continuous conduct of the public schools. Violation of this provision shall be grounds for loss of tenure or suspension or both, or dismissal.

Section 9. A new section of KRS Chapter 160 is created to read as follows:

Certificated personnel shall have the right to join or not to join any association for their professional or economic improvement.

Section 10. A new section of KRS Chapter 160 is created to read as follows:

Expenses of advisors selected jointly by the board and the association and expenses of persons required to be appointed by the Superintendent of Public Instruction or the circuit court shall be shared equally by the board and the association. The board shall pay the expenses of any person it appoints or selects, and the association shall pay the expenses of any person it appoints or selects. Expenditures required under this Act are conclusively presumed to be for the direct benefit of the public schools and for a valid school purpose.

Section 11. A new section of KRS Chapter 160 is created to read as follows:

(1) Boards and associations reaching agreements, as described in Section 5 (3), shall adopt a grievance procedure pursuant to Sections 12, 13 and 14 of this Act, or some other grievance procedure negotiated by the parties and contained in the agreement. The purpose of any such grievance procedure shall be to secure at the lowest possible administrative level, equitable solutions to the problems that may from time to time arise affecting the interpretation, meaning or application of the provisions of the agreement between the association and the board. The proceedings will be kept informal and confidential at any level of the procedure, but may be made public within three (3) days of the conclusion of the final arbitration.

(2) Nothing contained herein will be construed as limiting the right of any member having a grievance to discuss the matter informally with any appropriate member of the administration, and to have the grievance adjusted without intervention by the association.

(3) The grievance procedures contained in Sections 12, 13 and 14 of this Act shall not be applicable to any agreement unless specifically adopted by the terms of such agreement.

Section 12. A new section of KRS Chapter 160 is created to read as follows:

(1) Grievances must be processed as rapidly as possible and the timetable specified at each level is to be considered as a maximum. Every effort should be made to expedite the process but the time limits specified may be extended by mutual agreement. In the event a grievance is filed at such a time that it cannot be processed through all the steps in the grievance procedure by the end of the school year and, if left unresolved until the beginning of the following school year, could result in irreparable harm to a party in interest, the time limits set forth herein shall be reduced so that the procedure will be exhausted prior to the end of the school year or as soon thereafter as is practicable. No grievance may be filed later than three (3) months after the event that allegedly caused it.

(2) Level One. A member with a grievance will first discuss it with his principal or immediate superior, either directly or through the association's designated grievance representative, with the objective of resolving the matter informally.

(3) Level Two.

(a) If the aggrieved person is not satisfied with the disposition of his grievance at Level One, or if no decision has been rendered within ten school days after presentation of the grievance, he may file the grievance in writing simultaneously with the chairman of the grievance committee, as established by the association, and with the superintendent within five school days after the decision at Level One or fifteen school days after the grievance was presented, whichever is sooner.

(b) Within ten school days after receipt of the written grievance by the superintendent, he will meet with the aggrieved person and a representative of the association in an effort to resolve it.

(4) Level Three.

(a) If the aggrieved person is not satisfied with the disposition of his grievance at Level Two, or if no decision has been rendered within ten school days after he has first met with the superintendent, he may, within five school days after a decision by the superintendent or fifteen school days after he has first met with the superintendent, whichever is sooner, request in writing that the chairman of the grievance committee submit his grievance to arbitration. If the grievance committee determines that the grievance should be submitted to arbitration, the grievance committee may, by written notice to the superintendent within fifteen school days after receipt of the request from the aggrieved person, submit the grievance to arbitration. If the grievance committee does not submit the grievance to arbitration, the aggrieved person may do so by written notice to the superintendent within five school days after said refusal to submit by the grievance committee. The arbitrator selected to hear the dispute shall first rule on the question as to whether the particular

grievance involves the interpretation, meaning or application of any of the provisions of the agreement between the association and the board.

(b) Within ten school days after such written notice of submission to arbitration, the superintendent and the grievance committee shall attempt to agree upon a mutually acceptable arbitrator and to obtain a commitment from such arbitrator to serve. The aggrieved person shall take the place of the grievance committee when the grievance committee has declined to submit the grievance to arbitration. If the parties are unable to agree upon an arbitrator or to obtain such a commitment within the ten-day period, a request for a list of arbitrators may be made to the American Arbitration Association by either party. The parties will then be bound by the rules and procedures of the American Arbitration Association in the selection of an arbitrator.

(c) The arbitrator so selected will confer with the superintendent, the grievance committee, and the aggrieved person, hold hearings promptly, and issue his decision not later than twenty days from the date of the close of the hearings or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to him. The arbitrator's recommendations will be in writing and will set forth his findings of fact, reasoning and conclusions on the issues submitted. The arbitrator shall be without power or authority to make any decision that requires the commission of an act prohibited by law or that is violative of the terms of the agreement. The decision of the arbitrator will be submitted to the board and the association.

(d) In all arbitration hearings the procedural rules of the American Arbitration Association in effect at the time the grievance is originally filed shall be used to the extent that such rules do not conflict with this Act or the negotiated agreement.

(e) The costs for the services of the arbitrator, including per diem expenses, if any, and his travel and subsistence expenses and the cost of any hearing room shall be borne equally by the board and the association except when the aggrieved person pursues arbitration without the recommendations of the grievance committee. In such latter case the costs shall be borne equally by the board and the aggrieved person. All other costs shall be borne by the party incurring them.

Section 13. A new section of KRS Chapter 160 is created to read as follows:

(1) No reprisals of any kind will be taken by the superintendent or by any member or representative of the administration or the board against any aggrieved person, any party in interest, any grievance representative, any member of the grievance committee or any other participant in the grievance procedure by reason of such participation.

(2) A member may be represented at all stages of the grievance procedure by himself, or, at his option, by a grievance representative, selected by the association. The association or aggrieved party shall not be restricted in the selection of a grievance representative and it is not necessary that the person selected be a member of the association or an employee of the board. The association or aggrieved party may choose to change grievance representatives in moving from one level of grievance procedure to another, provided the board is notified in writing of such change.

(3) References to the superintendent in Sections 5, 12, 13, and 14 shall be construed to include such other person or persons that the superintendent or board may designate as a representative for the purpose of carrying out the provisions of said sections.

(4) If a member is not represented by the association, the association shall have the right to present and state its views at all stages of the grievance procedure. When the association enters into the grievance procedure, it may present new facts but shall be restricted to the grievance as originally presented.

Section 14. A new section of KRS Chapter 160 is created to read as follows:

(1) If, in the judgment of the grievance committee, a grievance affects a group or class of members, the grievance committee may initiate and submit such grievance in writing to the superintendent directly and the processing of such grievance shall be commenced at Level Two.

(2) If a grievance arises from action or inaction on the part of a member of the administration at a level above the principal or immediate superior, the aggrieved person shall submit such grievance in writing to the superintendent and the grievance committee directly and the processing of such grievance shall be commenced at Level Two. The grievance committee may not process such a grievance if the aggrieved person does not wish to do so.

(3) Decisions rendered at Levels One and Two of the grievance procedure shall be in writing setting forth the decision and the reasons therefor and shall be transmitted promptly to all parties in interest and to the chairman of the grievance committee. Decisions rendered at Level Three will be in accordance with the procedures set forth in Section 12, (4) (d).

(4) If it is necessary for a grievance representative, member of the grievance committee or other representative designated by the association to investigate a grievance or attend a grievance meeting or hearing during the school day, he will, upon reasonable notice to his principal or immediate superior by the chairman of the grievance committee, be released without loss of pay as reasonably necessary in order to permit participation in the foregoing activities so long as such activities do not unreasonably interfere with the

normal school routines and business, provided, however, if the school administrator determines that such meeting unduly interferes with school business such meeting shall be held at a time other than normal school hours. Any member whose appearance in such investigations, meetings, or hearings as a witness is necessary will be accorded the same right.

(5) All documents, communications, and records dealing with the processing of a grievance will be filed in a separate grievance file and no record or notation of any kind, concerning a grievance, will be placed in the personnel file of any of the participants.

(6) Forms for filing grievances, serving notices, taking appeals, making reports and recommendations, and other necessary documents shall be prepared and distributed by the Superintendent of Public Instruction.

Section 15. The effective date of this Act shall be January 1, 1975.

The Committee Substitute for **HB 639** is as follows:

HB 639, AN ACT relating to professional negotiation between school boards and teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 160 is created to read as follows:

(1) Local district boards of education shall negotiate with the exclusive representative of certified employees on items including but not limited to working conditions, personnel policies, curriculum, wages, fringe benefits, and all other items mutually agreed to.

(2) When no agreement exists containing provisions for settlement of recognition disputes, such disputes shall be settled by guidelines established by the State Superintendent of Public Instruction.

(3) All negotiated contracts shall include a grievance procedure culminating in binding arbitration.

(4) Impasse disputes shall be settled in accordance with the rules of the American Arbitration Association. Binding arbitration of impasse will be entered into only if both parties agree.

The Committee on Education reported **HB 54**, **HB 193**, **HB 200**, **HB 338**, **HB 344**, **HB 373**, **HB 484**, and **HB 500** with the expression of opinion that the same should not pass.

The Committee on Education reported **HB 201** with Committee Substitute attached thereto, **HB 399**, **HB 408**, **HB 427** with Committee Amendment attached thereto, **HB 579** with Committee Amendment attached thereto, **HB 625** and **HB 640** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 201, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 161 is created to read as follows:

(1) The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall provide all employees of a local school board with free hospitalization. Included, but not limited to, school administrators, teachers, counselors, individuals serving with federally financed programs, bus drivers, secretaries, custodians, and cook.

(2) The State Board of Education shall establish such rules and regulations as are necessary to provide free hospitalization to all school employees.

The Committee Substitute to **HB 201** is as follows:

HB 201, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 161 is created to read as follows:

Each district board of education shall purchase a group insurance policy covering employees of the board who are required to be certified under the provisions of KRS 161.010 to 161.126. Said policy shall provide a comprehensive plan for hospital care, surgical and medical benefits and major medical coverage in the same amounts and with the same options as similar benefits, coverages and options provided for state employees who are covered by the "Kentucky Employees Retirement System" established by KRS 61.510 to 61.700.

HB 399, AN ACT relating to school district capital outlay.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school foundation program funds made available to the credit of each district during any year, together with the funds required from local tax effort, shall be received, held and expended by the district board, subject to the provisions of law and regulations of the State Board of Education. The following restrictions shall govern the expenditure of funds from the public school foundation program fund:

(1) The teachers' salaries allotment for each district from the public school foundation program fund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the public school foundation program fund allotment for that rank as established in subsection (2) of KRS 157.390, and no teacher shall be paid less than 93 percent of the public school foundation program fund allotment for that rank for full-time service during the regular school year. This paragraph shall not apply to non-certificated personnel in experimental districts designated pursuant to paragraph (b) of subsection (2) of KRS 157.390.

(2) The State Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year in which the total amount budgeted for teachers' salaries is not equal to an amount required to maintain the district's salary schedule of the preceding year plus the additional amount for teachers' salaries received by the district.

(3) The capital outlay allotment for each district from the public school foundation program fund and from local sources shall be kept in a separate fund and may be used by the district only for capital outlay projects approved by the Superintendent of Public Instruction in accordance with requirements of law, and based on a survey made in accordance with rules and regulations prescribed by the State Board of Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the State Board of Education under KRS 160.550;

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets; provided, however, if any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the Superintendent of Public Instruction under regulations of the State Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses.

(4) If a survey shows that a school district has no capital outlay needs as shown in paragraph (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the Superintendent of Public Instruction, these funds may be used for school plant maintenance, repair, insurance on buildings, and replacement of equipment.

(5) *In the event that a local board of education requests approval for a capital outlay project to construct a multi-purpose facility, consisting of space and equipment to be used as a cafeteria, gymnasium, auditorium, and other related purposes, the Superintendent of Public Instruction shall approve such request if the following conditions are met:*

(a) *There is a unanimous vote by the local board of education requesting the approval;*

(b) *The local district has appropriate funds on hand, or has the needed bonding power, to finance such construction;*

- (c) *There has not been a decrease of more than ten percent in the school district student population over the previous five years;*
- (d) *The proposed capital outlay construction project has been submitted by referendum to the voters of the district and has received approval by at least two-thirds of those voting; and*
- (e) *When a rural school is under consideration for the construction of a multi-purpose facility it is determined by the local board to be so isolated as to require the facility.*

HB 408, AN ACT relating to the confidentiality of student records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.283 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Institution" means any public supported college, university, or institution of higher education.

(b) "Records" means any information of an academic or non-academic nature, kept by any college, university or institution of higher education.

[(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all public supported institutions of higher learning in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.]

(2) All student [academic] records shall be confidential, with the exception of the exemptions stated in subsections (3) to (11) [(9)] of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, school or institution, group or agency, except with the written [express] consent of the individual student whose records are requested, or by authorization of a subpoena [This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades].

(3) Academic test scores, grades, grade-point averages and other objective measures of academic achievement may be released only to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated when necessary for professional academic follow-up studies and shall be limited to only that information necessary for the study. This information may be viewed only by the individual(s) to whom the information is released.

(4) Information described in section 3 may be made available upon request to the Council on Public Higher Education for professional academic research where proper precautions are taken so that a student's identity is not revealed.

(5) Any parent or legal guardian of any student under the age of eighteen (18) years of age shall have access to academic test scores, grades, grade-point averages, and other objective measures of academic achievement.

(6) There shall be no release of student records from the custody of any person, group, department, college or other custodian of records within the institution to any other person, group, department or college within the institution with the exception of exemptions noted in sections (7) through (9).

(7) Medical information possessed by institutions may not be released without written permission of the individual student except for use by medical personnel for purposes of treatment.

(8) Counseling and psychological testing records shall not be released or viewed without the written consent of the student, except for professional academic research within a department of the university where appropriate safeguards are taken so that student identities are not revealed.

(9) Discipline records, whether or not kept as part of any other record, shall not be released or viewed without the written permission of the student, except as between those university administrative officials responsible for discipline within the institution.

(10) Character or ability evaluations and recommendations shall not be released without the written consent of the student. The student shall be permitted to view unsolicited evaluations and recommendations and may insert a note of explanation to become a permanent part of his record or may petition the appropriate custodian of such records to have an unsolicited evaluation or recommendation removed from his record.

(11) All information maintained by the institution concerning a student shall be available for the students review with the exception of solicited recommendations and medical and psychological information.

(12) Each university and college in Kentucky shall, on or before January 1, 1975, develop procedures for control and release of all student records, both academic and non-academic. Each institution shall publish

and make available to all students such records and information release policy statement.

(13) *In accordance with section (12), institutions may release or publish the following information: Name, address, telephone number, date of birth, dates of attendance, college or division, and current academic classification.*

(14)[(10)] This section shall be applicable to all [academic] records maintained by all public supported institutions of higher education in Kentucky.

[(3)] All student records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student records shall be available upon request to any federal, state, or local law enforcement agency and any court of law.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student records shall be made available upon request to the council on public higher education for professional academic research.

(9) All student records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.]

HB 427, AN ACT relating to public school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.152 is amended to read as follows:

(1) For the purpose of this section, "school personnel" shall mean any person employed as a full time employe in the public schools.

(2) Each district board of education *shall* [may] allow each person employed as a full-time employe in the public schools not to exceed three (3) emergency days per school year for reasons designated by *the employe* of the district board of education, without loss of salary to the employe and without affecting his sick leave.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.155.

(4) Payments made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and the payments do not affect the eligibility of any school district to participate in the foundation program as established in KRS chapter 157.

The Committee Amendment to **HB 427** is as follows:

Amend printed copy of House Bill 427 page 1, line 11, by deleting the period after the word "leave" and by adding thereafter the following: ", except as provided in subsection (3) of this Act."

line 14, by adding after "161.155." the following: "Any district board of education may, in its discretion, allow teachers emergency days in excess of the number of days prescribed in subsection (2) of this Act. Such additional emergency days may be charged against accumulated sick leave as provided in KRS 161.155(3)."

HB 579, AN ACT relating to teachers retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts, 1938, 1st ex.s., c. 1, paragraph 49; and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the State Department of Education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky State University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, Kentucky Authority for Educational Television, and such members of the administrative staff of the teachers' retirement system of the State of Kentucky as the board of trustees may designate by regulation; and

(e) Regional Cooperative Organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations.

[(4) "Teacher" means:

(a) Any full-time regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other full-time member of the teaching or professional staff engaged in the service of the public elementary and secondary schools, or in programs of adult education conducted by legally constituted local boards of education, for whom certification is required by the State Department of Education as a condition of employment;

(b) All members of the instructional and administrative staffs of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, Kentucky School for the Blind, Kentucky School for the Deaf, and the state and area vocational schools who are regular, full-time employees of a board of education, board of regents or similar body in a position requiring certification or a professional level of training as a condition of employment;

(c) The Superintendent of Public Instruction, assistant superintendents, and the division heads; staff members of the State Department of Education employed in positions for which certification by the certification agency of the department is required as a condition of employment;

(d) Any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts, 1938, 1st ex.s., c. 1, paragraph 49;

(e) Such members of the administrative staff of the teachers' retirement system of the State of Kentucky as the board of trustees may designate by regulation; and

(f) All members of the instructional and administrative staffs of any existing or later established public junior college not under control of the Board of Trustees of the University of Kentucky.]

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938, 1st ex.s., c. 1, on the date of the inauguration of the system or within one year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470 (4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Annual salary" means the average annual salary which the member has received for his service as a teacher in the public schools of Kentucky for five years or for as many years if less than five, prior to July 1, 1941, except that any salary which exceeds two thousand dollars shall be considered two thousand dollars. Any salary subsequent to July 1, 1941, for service in a covered position in Kentucky on which the member has made contributions shall be the actual arithmetic average salary for the five highest years.

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of retirement" means the age attained as of July 1 of the fiscal year in which retirement is to be effective[preceding the date of retirement].

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which [at the last birthday of any member at the time] he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Last earned annual compensation" means the gross compensation before any deduction earned by the member for the last full payroll period, multiplied by the number of payroll periods in the member's contract year.

(21) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year.

(22) "*Regular teacher, supervisor, or administrator*", when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.250 is amended to read as follows:

The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.220 to 161.710 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky". The board of trustees shall consist of the Superintendent of Public Instruction, [the Attorney General,] the State Treasurer, and six other trustees elected as provided in KRS 161.260. Four of the elective trustees shall be members of the retirement system, to be known as teacher trustees, one shall be a person who is not a member of the teaching profession, to be known as the lay trustee, and one shall be an annuitant of the retirement system to be known as the retired teacher trustee. In 1973, one teacher trustee shall be elected for a regular four-year term and one teacher trustee shall be elected for a two-year term. Thereafter, one teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected in 1973, and each four years thereafter.

Section 3. KRS 161.290 is amended to read as follows:

The members of the board of trustees shall serve without compensation except that elective trustees shall receive *forty-five* [twenty-five] dollars for each day the board is in session and all trustees shall be reimbursed from the expense fund for all necessary expenses they incur through service on the board. Suitable office quarters for the operations of the Retirement System shall be provided by the state at the capital.

Section 4. KRS 161.300 is amended to read as follows:

Five members [A majority] of the board of trustees shall constitute a quorum. Each trustee shall be entitled to one (1) vote. Four (4) votes *or a majority of the trustees present whichever is the larger number* shall be necessary for a decision by the trustees at any meeting of the board.

Section 5. KRS 161.380 is amended to read as follows:

(1) The state treasurer is the custodian of all *cash* funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds. [All securities purchased by order of the board of trustees shall be placed in the hands of the treasurer. He shall collect the interests and principal thereon as it becomes

due and payable and place it in the guarantee fund.] The treasurer shall[, upon delivery of the securities to him,] honor and pay all vouchers drawn on the retirement funds for payment of securities purchased upon order of the board. [The board may sell any of the securities and the proceeds thereof shall be paid by the purchaser to the treasurer upon delivery to him of the securities by the treasurer.] All payments from the several funds of the retirement system shall be made only upon vouchers signed by the *executive secretary or the chairman of the board of trustees* of the retirement system.

(2) *The board of trustees shall appoint a custodian or custodians of the securities acquired under authority of KRS 161.430 and the custodian or custodians shall be responsible for the safekeeping of all securities placed in his custody. The custodian shall collect dividends, interests, and payments on principal as they become due, and deposit such funds with the State Treasurer for credit to the guarantee fund of the system. The custodian shall, upon delivery of the securities to him, make payment for same as authorized by the board of trustees. When securities are sold by the board of trustees, the custodian shall deliver such securities to the purchaser upon receipt of payment from said purchaser.*

(3) *The board of trustees may require such surety from the custodian as they deem necessary for the protection of securities held by such custodian.*

Section 6. KRS 161.420 is amended to read as follows:

All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four per cent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system.

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability.

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund together with regular interest assigned by the board of trustees from the guarantee fund. At time of retirement of a member by reason of service or disability there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance.

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances.

(5) The hospital and medical insurance fund shall be the fund in which an amount equal to one-half of one per cent (.5%) of the gross annual payroll of all members shall be deposited. One-quarter of one per cent of such funds shall derive from member contributions and one-quarter of one per cent (.25%) from state appropriation. Moneys so deposited shall be paid from this fund in order to meet costs resulting from medical and hospital services to retired members as provided in KRS 161.675. Any amounts not required to meet current costs shall be maintained as a reserve for this benefit.

(6) The survivors and death benefit fund shall consist of amounts accumulated for the purpose of providing survivors and death benefits to the estates or assigns of deceased members as provided in KRS 161.520, 161.525, and 161.655. One half of one percent of the annual compensation of all members shall be deposited in this fund. One-quarter of one per cent (.25%) of this amount shall derive from the contributions of members and one-quarter of one per cent (.25%) from state appropriation. In addition whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund and the allowance reserve fund such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, and 161.655 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for this benefit.

(7) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee

fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund.

Section 7. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers and all present teachers except as provided in Acts, 1938, 1st ex.s., c. 1, paragraph 29. No person without previous Kentucky service who was age sixty-five or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may[, before he is absent from service three school years,] repay the system the amount withdrawn plus [regular] interest and re-establish his service credit as provided in KRS 161.470(3).

(3) Effective July 1, 1974[1960], and thereafter, an active contributing member of the retirement system with [at least three years of] contributing service *equal to three years or the number of years subsequent to the withdrawal of contributions, whichever is the lesser number*, [and cancellation of service credit] may regain such *service credit* by depositing in the teachers' savings fund the amount withdrawn with interest at the rate *to be set by the board of trustees* [three percent per annum compounded annually], and computed from the first of the month of withdrawal and including the month of redeposit [and by depositing in the state accumulation fund an additional sum equal to fifty percent of this amount. The payment to the state accumulation fund, shall, in the event of death of the member prior to retirement, be refunded to the estate or assigns of the teacher unless the assigns qualify for benefits provided in KRS 161.520 or 161.525].

(4) Effective July 1, 1974 [1960], any active contributing member with at least three years of service credit who declined membership as provided in Acts, 1938, 1st ex.s., c. 1, paragraph 29, may secure service credit for prior services, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of *six* [three] percent compounded annually to the date of deposit. [The teacher shall also deposit an additional sum equal to fifty percent of this amount in the state accumulation fund. In the event of the death of the member prior to retirement, the payment to the state accumulation fund shall be refunded to the estate or assigns of the teacher unless the assigns qualify for benefits provided in KRS 161.520 or 161.525.]

[(5) No person shall take advantage of the provisions of subsections (3) and (4) above more than once.]

(5) [(6)] Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a teacher, having less than five years of Kentucky service, is absent from service for more than six consecutive years. A member who has completed five years of Kentucky service may elect to leave his deposits with the system and retire as set forth in KRS 161.600, subsection (1).

(6) [(7)] In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall *on request of the teacher* return [to the teacher] all of his accumulated contributions, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to any contributions made to the hospital and medical insurance fund, or the survivors and death benefit fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, but in lieu thereof the teacher shall be entitled to a retirement allowance.

(7) [(8)] Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to any contributions made to the hospital and medical insurance fund or the survivors and death benefit fund.

(8) *Any active contributing member of the Kentucky Employes Retirement System, the County Employes Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, subsequent to July 1, 1972, under such retirement system for the purpose of meeting the service requirement of subsection (3) of this section.*

Section 8. KRS 161.507 is amended to read as follows:

(1) A member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.470 (5)(d)[(6)(e)], 161.600 (1) or 161.661 (1). A maximum of six years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) *A member having twenty years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.*

Section 9. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a member of the retirement system for at least one full scholastic year, *subsequent to the latest out-of-state service*, may present for credit, service rendered out-of-state subsequent to July 1, 1941, not to exceed eight such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system the amount he would have paid had he been teaching in Kentucky and in addition thereto *interest at a rate to be set by the board of trustees* [three percent compound interest] on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. For each year of which the retirement system shall accept the contribution and interest, one year of subsequent service credit shall be given. No credit shall be granted for service which *has been* [is being] or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(b) For each such year so paid for and for any additional years for which contributions have been paid currently, not to exceed eight years in all, any member of the retirement system may offer bona fide out-of-state service for credits as prior service but not a greater number of years than the number for which contributions are paid, and in no case more than eight years of service prior to July 1, 1941. If out-of-state service was rendered in 1940-41 then contributions must be made for this year in the same manner as described under paragraph (a) of this subsection. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds. All such service, both subsequent and prior, shall be certified to by the member and verified according to KRS 161.480 and 161.490.

(c) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2) (a) or (2) (b) of this section shall not exceed a total of eight years service credit.

Section 10. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow, or a dependent widower, the benefit shall be one hundred *sixty* [and fifty] dollars per month.

(2) Where there are surviving unmarried children under age eighteen or under age nineteen if a full-time student in high school, the benefit shall be one hundred *thirty* [and twenty-five] dollars per month in the case of one such child, two hundred *thirty-five* [and twenty-five] dollars per month in the case of two such children, two hundred *ninety* [and seventy-five] dollars per month in the case of three such children, and three hundred *twenty* dollars per month in the case of four or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3).

(3) Where the survivor is a child age eighteen or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death the benefit shall be one hundred *sixty* [and fifty] dollars per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this subsection and subsection (2) shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five or over, the benefit shall be one hundred *sixty* [and fifty] dollars per month for one parent or two hundred *twenty* dollars per month for two parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred *thirty* [and twenty-five] dollars per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen or upon age nineteen if a full-time student in high school or upon marriage, except

that benefits shall continue until the attainment of age twenty-three for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, dependent widower, dependent parent or dependent brother or sister or dependent child age eighteen or older shall terminate upon marriage, or upon termination of the condition creating the dependency. The benefit shall not be paid during the time the survivor, other than a child is receiving an annuity, pension or allowance in excess of three hundred dollars per month from a retirement or pension system in the State of Kentucky financed in whole or part by public contributions, excluding Old Age and Survivors Insurance.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470 (7) [(8)]. If the benefits paid or payable under subsections (1), (2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 11. KRS 161.540 is amended to read as follows:

Each member shall contribute to the retirement system *seven and seven-tenths* [7 3/4] per cent of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation.

Section 12. KRS 161.545 is amended to read as follows:

(1) *Members* [Teachers] may [not] make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching [except] as provided in the rules and regulations of the board of trustees. *Members* [Teachers] placed on leave of absence may [not] make contributions and receive service credit for such leave [except] as provided in rules and regulations adopted by the board of trustees.

(2) *Members who have been granted leaves of absence since July 1, 1960, as provided in KRS 161.770, and who did not make contributions to the teachers' retirement system as provided for in regulations of the board of trustees, may make contributions prior to retirement under the following conditions: (a) such leave shall be verified by a copy of the board of education minutes which granted the leave of absence; (b) the member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of three percent compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and (c) the member may receive credit for no more than two years under the provisions of this subsection.*

Section 13. KRS 161.555 is amended to read as follows:

Each school district or institution employing members of the teachers' retirement system in positions established under educational acts adopted by the federal congress *and each Regional Cooperative Organization referred to in 161.220(4)(e), employing members of the teachers retirement system* shall contribute to the teachers' retirement system under regulations established by the board of trustees, an amount equal to that contributed by the members *so employed* [under the several federal education programs].

Section 14. KRS 161.590 is amended to read as follows:

(1) At retirement the total service credited to a teacher shall consist of prior and subsequent service rendered by him for which service credit has been allowed.

(2) *Kentucky service, presented at the time of retirement, may not be used in calculating benefits under KRS 161.525, 161.620, or 161.661, if such service has been used to increase benefits in another retirement system, not including Old Age and Survivors Insurance benefits under the Social Security Administration.*

Section 15. KRS 161.600 is amended to read as follows:

(1) Any member who has attained the age of sixty years and who has completed five years of service as a teacher in Kentucky subsequent to July 1, 1941, may retire upon written application to the board of trustees of the teachers' retirement system. Any member shall be automatically retired as of July 1 following the end of the fiscal year in which he attains the age of seventy providing however that a person reaching age seventy and having fewer than five years of Kentucky service shall receive a refund of his accumulated contributions as provided in subsection (6) [(7)] of KRS 161.470 in lieu of a retirement annuity.

(2) Any member of the retirement system with thirty years of creditable service in Kentucky may apply for and receive an annuity. At least five years of such service must be subsequent to July 1, 1941.

(3) Any person who has been a teacher in Kentucky for thirty years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five years, the same amount that he was required to contribute during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

Section 16. KRS 161.620 is amended to read as follows:

(1) The retirement allowance of a member retiring for service July 1, 1974 [1966], or thereafter whose age at retirement is *fifty-five* [sixty] years or more shall be the sum of (a) the prior service years multiplied by forty dollars and (b) two percent of the annual salary in Kentucky multiplied by the number of years of service credit after July 1, 1941. The retirement allowance of a member whose age at retirement is less than *fifty-five* [sixty] shall be reduced at the rate of *three* [five] percent for each year that the member is less than *fifty five* [sixty]. Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees.

[(2) The retirement allowance of a member whose age as of July 1, 1966, is sixty-five or older shall be the larger as computed by the two methods hereinafter described (a) applying the procedures as set forth in subsection (1) of this section or; (b) one percent of his average annual salary for prior service for each year of prior service credit plus one and three-fourths of his annual salary for each year after July 1, 1941, increased in accordance with the actuarial equivalents in use by the teachers' retirement system as of July 1, 1965.]

(2) [(3) The retirement allowance of all teachers retired prior to July 1, 1964, shall be increased by (a) the amount of ten percent or; (b) multiplying the total number of years of service by forty-five dollars, whichever is greater.] Effective July 1, 1970, and annually on July 1 thereafter the annual retirement allowance of each retired teacher shall be increased in the amount of one percent of the retirement allowance in effect on July 1, 1970, or the date of retirement, whichever occurs later. [Effective July 1, 1970, the monthly retirement allowance of each teacher retired as of that date shall be increased in the amount of two dollars multiplied by the number of years or fractions thereof which have elapsed since the effective date of the member's retirement and July 1, 1970, but not to exceed a maximum of twenty years.]

(3) [(4)] Any member qualifying for retirement under a Straight Life Annuity shall be entitled to receive an annual allowance amounting to not less than sixty dollars multiplied by the service credit years of the teacher, except that no retired teacher shall receive a monthly benefit of less than fifty-five dollars. The above minimums shall be effective July 1, 1972, and shall apply to those members already retired on that date as well as to those retiring subsequent to that date.

(4) [(5)] The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a Straight Life Annuity in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted Option Tables at the time of the member's retirement.

(5) [(6)] For each year of the 1974-76 [1972-74] biennium, the board of trustees may make a special benefit payment to persons retired for service or disability, and to beneficiaries of retirement options. Such payments shall *average* [not exceed an amount equal to] 5% of the annual benefit [or \$240, whichever is the lesser amount]. *The board of trustees shall provide by regulation for the distribution of such additional amounts as may be appropriated for this purpose. In adopting said regulation, the board of trustees may set minimum and maximum lump-sum payments, and may give consideration to the retirement dates of the respective recipients.* To be eligible for *either* [such] payment the retirement date of the annuitant must be at least one year prior to the beginning of the fiscal year during which the payment is to be made.

Section 17. KRS 161.661 is amended to read as follows:

(1) Any person who has completed *eight* [ten] or more years of accredited service in the public schools of Kentucky after July 1, 1941, [one full year of which immediately preceded retirement] may retire for disability and [shall] be granted a disability allowance *if found to be eligible as provided below. Application for disability benefits must be made within one year of the last contributing service in Kentucky, and the disability must have occurred during* [subsequent to] the most recent period of employment in a position covered by the teachers' retirement system and subsequent to the completion of *eight* [ten] years of teaching service in Kentucky. *A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service.* The annual *disability* allowance shall be equal to one-half of the last earned annual compensation.

(2) No member who has reached the age of sixty years and who is otherwise qualified for retirement may retire by reason of disability.

(3) Members shall earn one year of entitlement to disability retirement for each four years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five years of such eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one year for each year so retired. *Such service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, and shall be used in calculating benefits as provided in subsection (5) of this section.*

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall be entitled to retire for service. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty years of age shall be considered as sixty.

(6) *Any member retired by reason of disability, who is age sixty years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.*

(7) [(6)] In order to qualify for retirement by reason of disability a teacher must suffer from a physical or mental condition presumed to be permanent in duration and of such a nature as to render him incapable of being gainfully employed as a teacher. Such incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of the medical review board.

(8) [(7)] A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of the medical review board indicates the disability no longer exists, the allowance shall be discontinued.

(9) [(8)] No payment of a disability benefit shall be made until ninety days after the application for disability retirement has been filed.

(10) [(9)] No person who receives a disability allowance may serve as a teacher either within or without the State of Kentucky. So doing shall constitute a misdemeanor, and shall result in loss of such allowance from the first date of such service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of *nine* [seven] thousand dollars or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or *nine* [seven] thousand dollars, whichever is the greater amount. In no case shall the benefit be reduced to less than fifty-five dollars per month.

(11) [(10)] The board of trustees shall designate a medical review board consisting of three licensed physicians and may designate physicians in various areas of the Commonwealth to conduct examinations as needed. The medical review board shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by the medical review board in writing to the board of trustees. Members of the medical review board shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure such additional medical service and information as it deems necessary.

(12) [(11)] A disability may be presumed to be permanent if the condition creating such disability may be reasonably expected to continue for one year or more from the date of application for disability benefits.

Section 18. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to *teachers* retired [teachers] *for service who are age sixty (60) or older* [and] to teachers retired by reason of disability, to the spouses and minor children of said retired teachers, [and] to spouses receiving monthly benefits under the provisions of KRS 161.525, *and to minor children of teachers deceased prior to retirement if such teacher was sixty years of age or older at the time of death.*

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs.

(3) The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, *or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis.*

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program. *deceased prior to retirement if such teacher was sixty years of age or older at the time of death.*

Section 19. KRS 161.705 is amended to read as follows:

(1) Any member of the teachers' retirement system, or the board of education employing such member, or both, may make voluntary contributions of two per cent (2%) or more of the member's annual compensation to the retirement system for the benefit of the member. Such contributions shall be invested as provided in KRS 161.430.

(2) At retirement upon the written application any such member shall receive in addition to retirement allowances provided by law, such annuity as has been earned by the voluntary contributions made by or for such member, computed upon an actuarial basis, or a refund of contributions and accrued interest. The member shall have the same benefit options with respect to such additional annuity as are provided in KRS 161.630, *or the member may elect to receive no more than two lump sum payments of contributions and accrued interest in lieu of an annuity.*

(3) Upon the death or withdrawal from the retirement system of any member for any reason other than retirement, or upon the demand of the member such member or the estate of such member shall be reimbursed for any voluntary contributions made by such member. *If a deceased member has named a beneficiary for such contributions and accrued interest, the beneficiary may elect to receive any annuity or lump sum settlement which the member could have elected at retirement, adjusted for age and sex of the beneficiary.* A board of education may be reimbursed for any contributions made on behalf of a member by the board. Such reimbursement shall be made in a lump sum with earned interest [or] at a rate [of interest] fixed by the retirement board.

Section 20. In enacting this Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

Section 21. This Act shall become effective July 1, 1974.

The Committee Amendment to **HB 579** is as follows:

Amend printed copy of House Bill 579 page 2, line 13, be deleting the word "and"

, line 18, by deleting "." and by adding therefor ":", and by adding thereafter the following:

"(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Associations, Kentucky High School Athletic Association and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The Board of Trustees of the Kentucky Teachers' Retirement System may designate by regulation whether part-time members of the petitioning association are to be included. The state shall make no contributions on account of such members, either full-time or part-time. The association shall make the employer's contributions as required herein. The provisions of this paragraph shall be applicable to such members in the employ of the associations on or subsequent to July 1, 1972."

page 7, line 20, by deleting the word "six" and by adding therefor the word "seven"

, lines 23 and 24, by deleting lines 23 and 24 in their entirety and by adding in lieu thereof the following:

"trustees, two[one] shall be [a] persons who are not members [is not a member] of the teaching profession, to be known as the lay trustees, [trustee,]"

page 8, line 15, by deleting the word "operations" and by adding therefore the word "operation"

page 15, line 5, by deleting the word "services" and by adding therefore the word "service"

page 20, line 5, by adding thereafter the following:

"(d) A member having service referred to in subsection (2)(a) of this section may elect to use such service, not in excess of three years, for meeting the requirements of KRS 161.600(2) by making an additional contribution to the State Accumulation Fund equal to the regular member contributions for each year so used. The salary base to be used in determining this additional contribution shall be the average annual salary which is used in calculating the member's regular retirement annuity."

page 22, line 6, by adding the word "reaching" after the words "or upon"

page 32, line 19, by deleting "." after the word "demeanor" and by therefore ";;"

page 35, lines 9 and 10, by deleting all of lines 9 and 10 after the word "program."

and by deleting thereafter the following:

"(6) The board of trustees may extend coverage to members retiring for service at age 55 or older when it is determined that sufficient funds are available for this purpose."

HB 625, AN ACT relating to the Boards of Regents of State Colleges and Universities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky State College shall each consist of eight members appointed by the governor, one non-voting member of the teaching faculty, and one member of the student body of the respective university or college. The voting members of the board shall select a chairman annually.

(2) The terms of appointed members shall be for four years, and until their successors are appointed and qualified. Such appointments shall be made by the governor within thirty days after the expiration of the term of each member. *Each member may be reappointed but shall not serve more than two (2) consecutive terms.* If the governor should fail to make any such appointment within thirty days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty days after the expiration of such term.

(3) Not more than two appointed members of any board shall be residents of one county; nor more than four of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The non-voting faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three years and until his successor is elected and qualified. The faculty member shall be eligible for re-election, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(8) The student member shall be the president of the student body of the university or college on whose board of regents he is to serve. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

Section 2. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen competent citizens of Kentucky appointed by the Governor, two non-voting members of the teaching faculty of the University of Kentucky, and one member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The terms of the appointed members shall be for four years and until their successors are appointed and qualified. Four of the sixteen appointed members shall be appointed each year. *Each member may be reappointed but shall not serve more than two consecutive terms.* Three of the appointed members shall be representative of agricultural interests, three shall be alumni of the university, and ten shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two leading political parties of this state. Appointments to fill vacancies shall

be made for the unexpired term in the same manner as provided for the original appointments.

(2) The non-voting faculty members shall be teaching or research members of the faculty of the University of Kentucky of the rank of assistant professors, or above. They shall be elected by secret ballot by all faculty members of the university of the rank of assistant professor and above. Faculty members shall serve for terms of three years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The student member shall be the president of the student body of the university. If the president of the student body is not a full-time student who maintains permanent residency in the commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this commonwealth as the student member.

(4) No member of the Board of Trustees or its administrative staff shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the two faculty members.

Section 3. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of ten competent citizens of Kentucky appointed by the governor; one non-voting member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; and a student member who shall be the president of the student body; however, if the student body president is not a full-time student who maintains permanent residency in the commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this commonwealth as the student member. The faculty member and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The ten citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms, one (1) of which shall be from a list of three (3) names submitted by the mayor of the city of the first class;

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the University in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms, one (1) of which shall be from a list of three (3) names submitted by the mayor of the city of the first class;

(d) Three (3) for four (4) year terms, one (1) of which shall be from a list of three (3) names submitted by the county judge of the county in which the city of the first class is located.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each, and in making such appointments the governor shall observe the requirements relating to nominations by the mayor of the city of the first class, the county judge of the county in which the city is located, and the alumni members. Subject to such requirements the governor shall make his appointments from the state at large so as to divide the representation upon the board as nearly equally as possible between the two (2) leading political parties in this state. *Each member may be reappointed but shall not serve more than two consecutive terms.*

(4) Whenever, in the judgment of the state commissioner of finance, the total appropriations from the governments of the city of Louisville and Jefferson County shall fall below the level of support existing on July 1, 1970, or below 12 per cent of the combined total of state and local appropriations to the university for more than one (1) city or county budgetary period, the nominating authority of the mayor of the city of the first class and the county judge of the county in which the city is located shall terminate, and the appointments for all trustees, except the one (1) selected from recommendations of the alumni, shall be made directly and exclusively by the governor. Such alteration shall not affect the total number of memberships on the board.

(5) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsections (3) and (4) of this section.

(6) No member of the board of trustees or of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty and student members.

(7) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

HB 640, AN ACT relating to school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.042 is amended to read as follows:

(1) Upon a merger under the provisions of KRS 160.040 and 160.041 of an independent school district in a city of the first class with a county school district in counties containing a city of the first class, the members of the county board of education of the merged county school district, *shall be elected pursuant to KRS 160.200 and 160.210* [shall be elected from the county school district at large].

(2) Each member of the respective boards of education at the time of the merger of the districts, may continue to hold office until the expiration of his or her term of office, but any vacancy occurring among such members for any reason shall not be filled.

Section 2. KRS 160.160 is amended to read as follows:

Each school district shall be under the management and control of a board of education consisting of five (5) members, *except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have nine (9) members elected from the divisions and in the manner prescribed by KRS 160.210(3)*, to be known as the "board of education of ..., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created.

Section 3. KRS Chapter 160.200 is amended to read as follows:

(1) All elections for members of boards of education shall be in even numbered years, for a term of four (4) years, *except as provided in KRS 160.210(3)*. Except as provided in subsection (3) of this section, the elections shall be held at the regular November election. In all county districts and in those independent districts embracing cities of the second or third class, two (2) members shall be elected in 1942 and three (3) in 1944. In all other school districts three (3) members shall be elected in 1942 and two (2) in 1944.

(2) In each even numbered year thereafter, there shall be held an election in every county and independent district to fill the membership of the boards of education for the terms that will expire on the first Monday in January following, and the regularly elected members shall hold office for four (4) years and until their successors are elected and have qualified.

(3) Any independent school district embracing a city of the fifth class may, at the discretion of its board of education, hold its election of board members at its public school building on the first Saturday in May. The election shall be held by three (3) officers appointed by the board of education and the expenses of the election shall be paid from the treasury of the school district. In all other respects the provisions of this chapter relating to holding elections for board members shall apply.

(4) *In counties containing a city of the first class, wherein a merger pursuant to KRS 160.041 shall have been accomplished, the terms of the members shall be as provided in KRS 160.210(3). Elected members of such boards serving at the effective date of such a merger shall continue to serve until their term expires, but no appointments shall be made to fill vacancies.*

Section 4. KRS Chapter 160.210 is amended to read as follows:

(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions as nearly equal in population and containing integral voting precincts insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200, 160.220 to 160.250.

(3) No change shall be made in the boundary lines of the present division of the county school district until January 1, 1959, except in case of merger of districts or change in territory due to annexation. Any changes made in division boundary lines shall be such as will make divisions as nearly equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines more frequently than five (5) years after the last change in any division lines, except in case of merger of

districts a change in territory due to annexation. *In counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be eight (8) divisions. To be eligible to be elected from a division, a candidate must reside in that division. The division boundary lines shall be made to conform to the boundary lines of the eight (8) senatorial districts as provided in KRS 6.011. That portion of the Twenty-sixth (26th) Senatorial District lying within Jefferson County shall be included in the Thirty-sixth (36th) Senatorial District for the purpose of voting in school board elections. There shall be a ninth member of the board elected from the county at large. The initial terms of the members to be elected shall be as follows: those elected from Senatorial Districts Seven (7), Thirty-three (33), Thirty-five (35), and Thirty-seven (37), shall be elected and shall serve for a term of four (4) years; those elected from Senatorial Districts Nineteen (19), Thirty-four (34), Thirty-six (36) (including that portion of district Twenty-six (26)), and Thirty-eight (38) shall be elected for a term of two (2) years. Thereafter, all terms shall be for a period of four (4) years. The term of office of the member elected from the district at large shall remain at two (2) years. The election for the initial terms shall be held at the next regular November election following the effective date of a merger pursuant to KRS 160.041 and, thereafter, every second year following the initial election. A record of all changes in division lines shall be kept in the office of the county board of education, and shall be published pursuant to KRS chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication. No change shall be made in the boundary of any division after January 1 prior to the date on which a member of the school board is to be elected from any division.*

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the state board of education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the superintendent of public instruction shall cause an investigation to determine the validity of the petition, said investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the state board of education, upon the recommendation of the superintendent of public instruction, shall order the local board of education to make such changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the state board of education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the state board of education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

Section 5. KRS 160.260 is amended to read as follows:

(1) The voting in county districts shall be by divisions. Each voter shall be issued a school ballot and shall vote for only one (1) candidate by making a cross in the square opposite the name of the candidate for whom he wishes to vote. The legally eligible candidate receiving the highest number of votes cast in his division shall be declared elected. *In counties containing a city of the first class each voter shall also vote for one candidate to be elected from the county at large.*

(2) In independent school districts each voter may vote for as many candidates as there are members to be elected by making a cross in the square opposite the name of each candidate for whom he wishes to vote, and the ballot shall show the number of board members to be elected. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

The Committee on Elections and Constitutional Amendments reported **HB 138** and **HB 450** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 138, AN ACT providing for the taking of the sense of the people of the State as to the necessity and expediency of calling a convention for the purpose of revising or amending the Constitution of the Commonwealth, and such amendments as may have been made to same as provided by Section 258 of the present Constitution of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the sense of the people of the State as to the necessity and expediency of calling a convention for the purpose of revising or amending the present Constitution, and such amendments as may have been made to the same, shall be taken as herein provided and as provided by section 258 of the present

Constitution of Kentucky.

Section 2. When this Act is passed at the present session of the General Assembly by a majority of all members elected to each house of the present General Assembly, that is when a majority of all the members of each house shall concur by a yea and nay vote, to be entered upon their respective Journals, this Act shall be spread upon the respective Journals of each house as a law.

Section 3. If the next session of the General Assembly shall, in like manner concur in this Act after it becomes a law as herein provided, it shall provide for having a poll opened in each voting precinct in this state by the officers provided by law for holding general elections at the next ensuing regular election to be held for State officers or members of the House of Representatives, which does not occur within ninety days from the final passage of such law, at which time and place the votes of the qualified voters shall be taken for and against calling the convention, in the same manner provided by law for taking votes in other State elections. The vote for and against said proposition shall be certified to the Secretary of State by the same officers and in the same manner as in State elections. If it shall appear that a majority voting on the proposition was for calling a convention, and if the total number of votes for the calling of the convention is equal to one-fourth of the number of qualified voters who voted at the last preceding general election in this State, the Secretary of State shall certify the same to the General Assembly at its next regular session, at which session a law shall be enacted calling a convention to readopt, revise or amend the present Constitution of this State, and such amendments as may have been made thereto.

Section 4. That before any constitution agreed upon by said convention shall take effect or become operative, the same shall be submitted to the qualified voters of this commonwealth, after at least ninety days' notice, and ratified by a majority of those voting.

HB 450, AN ACT relating to financial disclosure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.740 is amended to read as follows:

(1) Persons required to file information under KRS 61.710 to 61.780 shall file with the Registry of Election Finance the following:

(a) A description of each financial interest, direct or indirect, of a value of \$1,000 or greater of himself, his spouse and his dependents[, and his principal employer]. Exempted from this disclosure are interests in the form of accounts in banks, savings and loan associations, and credit unions and equity interests valued at less than \$1,000.

(b) A list of every office, directorship or employment held by the subject individual and by his spouse and dependents and his principal employer in any entity regardless of the income received or equity held, excepting such activities in political, religious or charitable entities if compensation of less than \$1,000 per year is received.

(c) A list of all entities to whom the subject individual [and his principal employer] furnished compensated services valued at more than \$1,000 during the period covered by the report.

(2) The values of the interests required to be reported under this section need not be disclosed. Any entity required to be reported under this section need not be identified by name. Such entity may instead be identified by the principal types of economic activities in which it engages, together with such additional detail, to be prescribed by the Registry, as will fairly indicate its interests. Where disclosure is required because of legal services rendered to it, such entity may also be described by the type of legal services rendered to it.

The Committee on Elections and Constitutional Amendments reported **HB 165** without opinion.

The Committee on Elections and Constitutional Amendments reported **HB 277** with the expression of opinion that the same should not pass.

The Committee on Business Organizations and Professions reported **HB 537** and **SB 137** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 537, AN ACT relating to alcoholic beverages.

WHEREAS, tourism is being promoted in Kentucky and makes an important contribution to the economy of the Commonwealth; and

WHEREAS, the availability of modern, well appointed hotels, motels, motor courts and lodges in Kentucky is essential to the growth of tourism; and

WHEREAS, the limitation of the number of alcoholic beverages retail drink licenses for a "wet" county and in "dry" counties may preclude the issuance of a license to a hotel, motel, motor court or lodges constructed and operated for the primary purpose of serving transient patrons; and

WHEREAS, the uncertainty of the availability of alcoholic beverages retail drink licenses may act as a deterrent to the construction of hotels, motels, motor courts and lodges in Kentucky;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 242 is created to read as follows:

(1) Notwithstanding any other provision of this chapter to the contrary, in any single voting precinct in the State of Kentucky in which prohibition is in effect an election may be held in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120 to take the sense of the people of the precinct as to the sale of alcoholic beverages by the drink for consumption on the premises of a resort hotel, motel, motor court or lodge as defined in this Act, which resort establishment shall be limited to the operation of a service bar as defined in this Act.

(2) An election held pursuant to this section shall be precinct-wide.

Section 2. A new section of KRS Chapter 242 is created to read as follows:

The proposition to be voted upon in any election held pursuant to this Act shall be "are you in favor of the sale of alcoholic beverages by the drink for consumption on the premises of a resort hotel, motel, motor court or lodge in (name of precinct)?" There shall be two places on the ballot for registering votes, one for votes favoring the proposition which shall be designated by the word "yes," and one for votes opposing the proposition which shall be designated by the word "no." Each voter shall designate his vote by the word "yes" or the word "no."

Section 3. KRS 242.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcoholic beverage" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter, wine and all other spirituous, vinous, malt or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing more than one per cent (1%) of alcohol by volume, which are fit for use for beverage purposes. It does not include:

(a) Denatured alcohol or denatured rum;

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia, national formulary or the American institute of homeopathy that are unfit for use for beverage purposes;

(c) Patented, patent and proprietary medicines that are unfit for use for beverage purposes;

(d) Toilet, medicinal and antiseptic preparations and solutions that are unfit for use for beverage purposes;

(e) Flavoring extracts and syrups that are unfit for use for beverage purposes;

(f) Vinegar and preserved sweet cider;

(g) Wine for sacramental purposes;

(h) Alcohol, unfit for beverage purposes, that is to be sold for legitimate external use;

(i) Alcohol for mechanical and scientific purposes if unfit for a beverage; or

(j) Malt beverages, containing not more than 3.2 per cent of alcohol by weight, in territory that has in a referendum as provided in KRS 242.130 to 242.180 voted to allow the sale thereof.

(2) "Dry territory" means a county, city, district or precinct in which prohibition is in force.

(3) "Election" means an election held for the purpose of taking the sense of the people as to the application or discontinuance of the application of KRS 242.220 to 242.430 to a territory.

(4) "Prohibition" means the application of KRS 242.220 to 242.430 to a territory.

(5) "Territory" means county, city, district or precinct.

(6) "Vehicle" includes an animal used in hauling a vehicle.

(7) "Resort hotel, motel, motor court or lodge" means any establishment having at least forty rooms for the overnight accomodation of transient guests, having a restaurant or similar facility on the premises offering for sale prepared meals or food for consumption on the premises.

(8) "Service bar" means a facility at which employes only of a licensee (as defined in KRS 241.010 (20) may obtain alcoholic beverages by the drink to be served to patrons, customers, or consumers on the licensed premises only.

Section 4. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

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|---|-----------|
| (1) Distiller's license, per annum | \$ 500.00 |
| (2) Rectifier's license, per annum | \$1500.00 |
| (3) Blender's license, per annum | \$ 500.00 |
| (4) Vintner's license, per annum | \$ 500.00 |
| (5) Wholesaler's license, per annum | \$1000.00 |
| (6) Retail package license, per annum: | |
| (a) In counties containing cities of the first class | \$ 600.00 |
| (b) In counties containing cities of the second class | \$ 500.00 |
| (c) In counties containing cities of the third class | \$ 400.00 |
| (d) In counties containing cities of the fourth class | \$ 300.00 |
| (e) In all other counties | \$ 200.00 |
| (7) Retail drink license, per annum: | |
| (a) In counties containing cities of the first class | \$ 800.00 |
| (b) In counties containing cities of the second class | \$ 500.00 |
| (c) In counties containing cities of the third class | \$ 400.00 |
| (8) Transporter's license, per annum | \$ 10.00 |
| (9) Dining car license, per annum | \$ 50.00 |
| (10) Special nonbeverage alcohol vendor's license, per annum | \$ 2.00 |
| (11) Special industrial alcohol license, per annum | \$ 2.00 |
| (12) Special nonindustrial alcohol license, per annum | \$ 2.00 |
| (13) Special agent's or solicitor's license, per annum | \$ 2.00 |
| (14) Special storage or warehouse license, per annum | \$ 50.00 |
| (15) Special temporary license, per month or part of month, one-sixth of the fees enumerated in subsection (7). | |
| (16) Special private club license, per annum | \$ 150.00 |
| (17) Special Sunday retail drink license | \$ 300.00 |
| (18) <i>Special resort service bar retail drink license</i> | \$ 500.00 |
| (19)[(18)] Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted | |

Section 5. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

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|---|-----------|
| (1) Brewer's license, per annum | \$1000.00 |
| (2) Distributor's license, per annum | \$ 100.00 |
| (3) Retailer's license, per annum | \$ 25.00 |
| (4) Dining car license, per annum | \$ 25.00 |
| (5) Transporter's license, per annum | \$ 5.00 |
| (6) Special temporary license, per month or part of month | \$ 4.17 |
| (7) <i>Special resort service bar retail drink license</i> | \$ 25.00 |
| (8)[(7)] Such other special licenses as the state board finds to be necessary for the administration of chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board. | |

Applicants for special licenses provided for under the authority granted in subsection (8)[(7)] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

Section 6. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second or third class, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 to 70.570 and KRS 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.700 to 95.710 and KRS 95.720 to 95.787.

(3) *Notwithstanding any other provision of law, a special license to sell alcoholic beverages by the drink from a service bar on the premises of a resort hotel, motel, motor court or lodge, as defined in this Act, for consumption on the premises, may be issued for premises located within a voting precinct in which the majority of votes cast in the most recent election held pursuant to Sections 1 and 2 of this Act were in favor of the proposition voted upon.*

(4)[(3)] Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 to 70.570 and KRS 70.150 to 70.170.

(5)[(4)] Notwithstanding subsection (4)[(3)], the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if:

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed; and

(c) The part of any premises to be licensed under this subsection which is available to the public shall not, except in the case of a drug store, exceed one hundred square feet of floor space and shall not contain any chairs, benches, stools or similar furniture or fixtures.

(6)[(5)] No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

SB 137, AN ACT relating to motor vehicle sales.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.046 is amended to read as follows:

(1) A manufacturer or distributor shall pay reasonable compensation to any authorized motor vehicle dealer who performs work to rectify the manufacturer's or distributor's product on warranty defects. *Reasonable cost includes diagnosing the defect plus administrative or clerical work.*

(2) In the determination of what constitutes "reasonable compensation" under this law the principal factor to be considered shall be the *amount of money* [rate or charge] which the authorized dealer is charging its other customers for the same type service or repair work. However, other factors such as the compensation being paid by other manufacturers or distributors to their dealers for such work; and the prevailing *amount of money* [wage or labor rate] being paid or charged by the dealers all in the city or community in which the authorized dealer is doing business may be considered.

(3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or *delay reimbursement of payment to the dealer beyond thirty-five days from the submission by mail of one copy of the repair order claim bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work.* Any other information, description, details, statistical analysis or clerical work of any nature related to the repair order claim shall be the responsibility of and performed by and at the expense of the manufacturer or distributor. *The dealer must hold the defective part or parts for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the repair order claim is submitted. In the event that payment is not received within thirty-five days from submission of the repair order claim, the dealer may deduct a like amount from any monies due and owing to the manufacturer or distributor. The manufacturer or distributor shall not discriminate against any dealer in the application of warranty, policy, and procedure or deny any just repair order claim submitted by a franchised dealer within 90 days from completion of the work. Any dispute between the dealer and the manufacturer distributor shall be subject to the provisions of KRS 190.057 [under this law or unreasonably delay adjustments in the rate or charge for particular warranty work as circumstances or changes may justify or require such adjustments].*

Section 2. A new section of KRS Chapter 190 is created to read as follows:

Controversies concerning the payment, proper credit of accounts, or other adjustments in transportation costs of new motor vehicles not accepted by or properly delivered to an authorized dealer shall be resolved solely between the manufacturing and transportation divisions of manufacturers or distributors.

The Committee on Cities reported **HB 107** with Committee Amendment attached thereto, **HB 445**, **HB 460** with Committee Amendment attached thereto, **HB 541** with Committee Amendment attached thereto, **HB 567**, and **HB 570** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 107, AN ACT relating to exempting governmental units from the sales tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage use or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container;

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use or other consumption in this state of, tangible personal property used for the performance of a lump sum, fixed fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(6) Gross receipts from sales of tangible personal property made in one cent portions through vending machines;[.]

(7) *Gross receipts from the sale of, use or other consumption in this state of tangible personal property which is sold or used by any political subdivision of the Commonwealth of Kentucky or any unit of local government whether it be municipal, county, or other political subdivision created by statute or other applicable laws of the Commonwealth.*

The Committee Amendment to **HB 107** is as follows:

Amend printed copy of House Bill 107 page 3, line 2 to read as follows: after the word "is" deleting the words "sold or."

HB 445, AN ACT relating to police and firemen pensions in cities of the third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.550 is amended to read as follows:

(1) The pensions or benefits paid for disability or death from the policemen's and firemen's pension fund in cities of the third class shall be as follows:

(a) If any member of the police or fire department becomes temporarily totally disabled, physically or mentally, while in the performance of duty and by reason of service in the department, the board of trustees of the pension fund shall order paid to him monthly, during his disability but not longer than one (1) year, a sum

of not more than sixty dollars (\$60.00) per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period. Provided, however, That the provisions of this paragraph shall not apply unless the disabled fireman or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board of trustees.

(b) If any member of the police or fire department becomes permanently disabled, physically or mentally, while in the performance of duty and by reason of service in the department, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty per cent (50%) of his monthly salary at the time of his retirement. Provided, however, That the provisions of this paragraph shall not apply unless the disabled fireman or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board.

(c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after fifteen (15) consecutive years of service in the department, and leaves a widow, *widower* or a child under *eighteen (18)* [fourteen (14)] years of age the board of trustees shall order a pension paid to the widow, *widower* or child. There shall be paid monthly to the widow *or widower*, while unmarried, a pension of *not less than thirty dollars (\$30.00), or not more than fifty percent of his monthly salary at the time of retirement or death* and for each child until it reaches the age of *eighteen (18)* [fourteen (14)] years, *not less than six dollars (\$6.00) or not more than ten percent of the deceased's monthly salary, such amount to be determined by the board of trustees*. If the deceased member was unmarried and childless, a pension shall be paid to his dependent father and mother of *not less than thirty dollars (\$30.00) or not more than twenty percent of the deceased's monthly salary* [per month]. If one (1) parent is dead, the other shall receive the entire amount [thirty dollars (\$30.00)], and if both are living, each shall receive *one half the amount, [fifteen dollars (\$15.00)] such amount to be determined by the board of trustees*.

(2) No person shall receive a pension from the policemen's and firemen's pension fund except as provided in this section.

Section 2. KRS 95.570 is amended to read as follows:

When an active or retired member of the police or fire department, in cities of the third class, dies under the conditions set out in paragraph (c) of subsection (1) of KRS 95.550, the board of trustees of the pension fund may pay from the fund to the widow, *widower* or family a sum of not more than *two* [one] hundred dollars (\$200) [\$100], for funeral expenses.

HB 460, AN ACT relating to tax liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.420 is amended to read as follows:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall accrue at the time the liability becomes fixed. The department of revenue may file, *and every city of the third, fourth, fifth and sixth class shall file* notice of the lien with the county clerk of any county where the taxpayer has property, giving the name and address of the taxpayer and the amount of the lien. The clerk shall file the notice in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state *and city* tax liens. The notice, when filed, shall be constructive notice to all

persons of the lien on the property having a legal situs in that county, except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee of \$1.25 for filing the notice of lien. The fee shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the state be required to pay the fee.

The Committee Amendment to **HB 460** is as follows:

Amend printed copy of House Bill 460 page 2, line 11 add after the word "file" the words *notice of the lien* and on page 2 line 13 after the words "notice of the" add the words *delinquent tax liens* and delete the word "lien" and on page 2 line 18 after the word "city" the words *delinquent and unpaid* are added

HB 541, AN ACT relating to firemen in cities of the third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.505 is amended to read as follows:

The fire department of each city of the third class shall be divided into three (3) platoons. Each platoon shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank or benefits of the members and officers of the fire department, shall not be reduced as a result of this subsection.

[In cities of the third class, the city legislative body may by ordinance provide that members of the fire department shall receive a period of twenty-four (24) consecutive hours off duty in each period of fourteen (14) days, in addition to receiving twenty-four (24) hours off duty in each period of forty-eight (48) hours, except in cases of extraordinary emergency.]

The Committee Amendment No. 1 to **HB 541** is as follows:

Amend printed copy of House Bill 541 page 1, line 4-8 by striking out on line 4 the words "Each platoon" and by striking out lines 5 through 8 in their entirety.

and by inserting in lieu thereof the following:

Each platoon shall be on duty for an average 56 hours work week, except in cases of emergency, but in no event shall a platoon work less than 24 consecutive hours.

The Committee Amendment No. 2 to **HB 541** is as follows:

Amend printed copy of House Bill 541 page 1, after line 13 by adding two new sections to read as follows:

"Section 2. A new section of KRS Chapter 95 is created to read as follows:

This Act shall apply only to cities of the third class with a population in excess of 13,500.

Section 3. This Act shall become effective July 1, 1976."

HB 567, AN ACT relating to public improvements by urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 67A is created to read as follows:

(1) The term "assessed value basis" as used in this Act means the plan for levying of improvement benefit assessments on the basis of the assessed land values of the benefited properties, as authorized by this Act.

(2) The term "costs" as applied to any project undertaken under this Act includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds.

Section 2. A new section of KRS Chapter 67A is created to read as follows:

It is the purpose of this Act to extend permissive authority of urban county governments for assessment financing of public improvements.

Section 3. A new section of KRS Chapter 67A is created to read as follows:

Bonds for improvements authorized by the provisions of this Act may be caused to mature as to principal in term or serial maturities not to exceed twenty years from date of issue.

Section 4. A new section of KRS Chapter 67A is created to read as follows:

The assessment for any public improvement authorized by the provisions of this Act shall be on an assessed land value basis.

Section 5. A new section of KRS Chapter 67A is created to read as follows:

If an urban county government desires to authorize, construct, and finance an improvement pursuant to the provisions of this Act, its governing body shall initiate the proceedings by adopting an ordinance, herein called the "First Ordinance," in which announcement shall be made of the proposed improvement in such manner as to identify the benefited properties which properties may be identified by naming the public way or ways upon which they abut, if any, or by geographical location, or both. In either case the ordinance shall recite the nature and scope of the improvement, a preliminary estimate of the costs thereof, as submitted in writing by an engineer, or firm of engineers, holding a license from the commonwealth of Kentucky, and the amount, if any, which the urban county government proposes to appropriate from available funds toward the estimated cost. In all succeeding proceedings, the urban county government shall be bound and limited by the preliminary report of the engineer, or engineers, with regard to the nature, scope, and extent of the proposed improvement project (unless the First Ordinance be amended); but shall not be bound by, or limited to, the preliminary estimate of costs. The costs shall be determined upon the basis of construction bids publicly solicited as hereinafter provided, and shall be binding upon the urban county government, and upon the owners of property to be benefited by the proposed improvement project, whether the same turn out to be equal to, below, or above such preliminary estimate. Architects, engineers, and fiscal agents may be employed without advertising or competition. The First Ordinance shall provide for a public hearing at a time and place specified therein (not less than one (1) week after publication) and shall give notice that at the hearing any owner of property to be benefited may appear and be heard as to

(1) Whether the proposed project should be undertaken or abandoned, and

(2) Whether the nature and scope of the project shall be altered. The First Ordinance shall be published pursuant to KRS Chapter 424. The First Ordinance may designate a person, who may be the mayor, a member of the governing body, or any official of the urban county government, to preside at and conduct such public hearing. In the absence of a designation in the ordinance, the mayor, or a person designated by the mayor shall preside. Notwithstanding the foregoing, the public hearing shall not be deemed irregular or improper if it is in fact presided over and conducted at the designated time, and place by any elected officer or member of the governing body. Any owner of property intended to be benefited by the proposed improvement project may be heard at such public hearing, in person or by a representative.

Section 6. A new section of KRS Chapter 67A is created to read as follows:

If at a subsequent meeting, the governing body of the urban county government determines that the owners of more than fifty percent both in number of lots or parcels and in aggregate assessed value of the properties to be benefited by the project, object to the project, it shall not be undertaken unless the project is that of constructing sanitary sewers, in which case the governing body may approve the project with less than fifty percent property owner approval if the project will eliminate a public health hazard. If fifty percent or more do not object, the governing body shall enact a Second Ordinance, which shall be published as provided in this Act with respect to publication of the First Ordinance.

Section 7. A new section of KRS Chapter 67A is created to read as follows:

Proposals for the construction of the project shall be solicited upon the basis of the submission of sealed competitive bids after advertisement, by publication pursuant to KRS Chapter 424. Upon or after the

acceptance by the governing body of a bid, or combination of bids, the governing body may determine the total cost for the proposed project, taking into account the amount of the accepted bids, and all other costs of the project, as herein defined. Each contract shall be supported by a performance bond for the full amount thereof, with good surety to be approved by the governing body.

Section 8. A new section of KRS Chapter 67A is created to read as follows:

(1) When the total cost of the project has been established, the amount to be assessed against each parcel of property shall be determined. Property owners shall be notified by certified mail of the exact amount due for their portion of the project. They shall be given thirty days in which to pay in full.

(2) At the end of the thirty days, the governing body shall total the amount of properties for which no payment was received and authorize sale of bonds of the urban county government to provide the amount necessary to complete financing of the project. The governing body shall establish the denominations and maturity dates thereof which may be term or serial maturities, not to exceed twenty years.

Section 9. A new section of KRS Chapter 67A is created to read as follows:

(1) Within thirty (30) days after notice provided in Section 8 (1) any owner of property to be benefited by the proposed project, may file an action in circuit court, seeking relief by declaratory judgment, injunction, or otherwise.

(2) If such action is filed, all proceedings of the urban-county government with respect to the above project shall be abated until final judicial determination of the controversies presented thereby. After the lapse of the thirty (30) day period, all actions by owners of properties to be benefited shall be forever barred.

Section 10. A new section of KRS Chapter 67A is created to read as follows:

An annual assessment on each parcel of property for which bonds are issued shall be levied according to the assessed value basis. The first such levy and each succeeding levy shall be made in advance and shall be sufficient to pay the principal and interest on the bonds. As a precaution against default and to provide a debt service reserve the governing body shall also assess and collect annually an amount equal to one-half of one percent of the total amount of the principal and interest of the bonds. The advance payment and debt service reserve shall be deposited in an interest bearing account. The earnings shall be used to pay the last installment on the bonds.

Section 11. A new section of KRS Chapter 67A is created to read as follows:

The governing body shall adopt a Third Ordinance authorizing the sale of the bonds and covenanting with the holders of the bonds and coupons, that until the payment in full thereof the urban county government will levy annually an improvement assessment upon the affected properties only. The ordinance shall also covenant with the holders of said bonds and coupons, until payment in full thereof, the governing body will pursue and exhaust, at the urban county government's expense, all remedies available to the urban county government and for the benefit and protection of the bondholders, including enforcement to judgment and decretal sale of the liens upon affected properties, as provided in this Act. The ordinance shall designate one or more places of payment of principal and interest, within or without the commonwealth and provide for the payment by the urban county government of any and all reasonable and customary charges for the services of paying agents, to the end that the holders of the bonds and coupons will receive the sums therein stipulated, without deductions for such charges. The ordinance may contain any other provisions not contrary to law.

Section 12. A new section of KRS Chapter 67A is created to read as follows:

After the Third Ordinance has been adopted (and without regard for its date of publication), the urban county government may solicit the submission of bids or proposals for the purchasing of the bonds authorized by the Third Ordinance, the same to be received upon a sealed competitive basis after advertisement by publication pursuant to KRS Chapter 424. Such bids or proposals may be solicited on the basis of competition as to price or interest coupon rates, as may be specified in the published notice, and bids offering less than the par or face value of the bonds may be considered and accepted if so stated in the published notice of the sale. If no bids are received upon terms acceptable to the governing body and conforming to the published notice, bids may again be solicited by similar published notice, until a purchase bid is received upon terms acceptable to the governing body, but the bonds, or a portion thereof, may be awarded to a contractor, according to the provisions of this Act.

Section 13. A new section of KRS Chapter 67A is created to read as follows:

As prepayments are received and when the bonds are delivered and the proceeds are received by the urban county government, the same shall be deposited in an interest bearing account in a bank or trust company, or combined bank and trust company, and to the extent such deposit may exceed insurance provided by federal deposit insurance corporation (if the depository be a member thereof, otherwise the full amount), the same shall be secured by a valid pledge of bonds or notes of the United States government, or fully guaranteed thereby, having at all times a market value equal to the undisbursed balance of such deposit; or shall be secured in such other manner as the governing body may prescribe or approve. Costs of the project which may then be earned and payable, may be paid forthwith. There shall be set aside into the sinking fund, hereinafter created, a sum from bond proceeds equal to all interest which will accrue on said bonds until the date when the first improvement assessment levied in connection therewith will become due

and payable. The remainder may be disbursed from time to time in payment of costs of the project, as herein defined, except that payments on account of the construction contracts shall not exceed ninety percent (90%) of the amount shown by a written certificate of the engineer to have been earned for materials furnished and/or labor performed by any contractor, the retained ten percent (10%) to be disbursed only upon final acceptance of the finished work of such contractor. If, after completion, acceptance and payment of the work of all contractors, and the payment of all costs of the improvement project, as herein defined, there shall remain an unexpended balance of bond proceeds, such balance shall be transferred to the sinking fund created and maintained in connection with the project, as provided in this Act. The advanced installment and the one-half of one percent collected pursuant to Section 10 of this Act shall be part of the sinking fund.

Section 14. A new section of KRS Chapter 67A is created to read as follows:

Each of said bonds shall bear on its face the statement that it has been issued under this Act, and that it does not constitute an indebtedness of the urban county government within the meaning of the constitution. The bonds, and the receipt of interest thereon, shall not be subject to taxation. The bonds shall have all the qualities and incidents of negotiable instruments. The bonds, and the interest thereon, shall be payable exclusively from the proceeds of the annual improvement assessments levied upon the properties benefited by the project identified in the bonds; but the urban county government shall become directly and personally liable to the bondholders for any deficiencies which may arise from its failure to pursue to exhaustion, and in timely fashion, all remedies lawfully available in the collection of such improvement assessments.

Section 15. A new section of KRS Chapter 67A is created to read as follows:

The sum necessary to be raised annually for the sinking fund shall be assessed against the property benefited in the proportion that the assessed value of each lot or parcel for urban county government taxation shall bear to the whole assessed value of the benefited properties, as shown by the records upon which urban county government taxation is based at the time of the adoption of the third ordinance. Where there is no such record, as in the case of public property, or property owned by religious, charitable, or educational institutions, the same (except that owned by the United States government) shall be specially assessed by the proper assessing officers, and for such special assessment reasonable compensation may be made. Any such special assessment shall be subject to all procedures for equalization and judicial review as may be provided by law in connection with ordinary assessments.

Section 16. A new section of KRS Chapter 67A is created to read as follows:

The Department for Finance and Administration of an urban county government shall provide a method of accounting for payments for less than a year in order to have the first and each succeeding installment in advance.

Section 17. A new section of KRS Chapter 67A is created to read as follows:

The annual improvement assessment for each project shall be levied by the governing body when the levy for general urban county taxes is made; and such improvement assessment levy shall be due at the same time, or times, when the general urban county government taxes are due, and shall be subject to the same penalties and accrual of interest in the event of nonpayment as in the case of such general taxes unless the bond interest rate is greater, in which case, it shall apply.

Section 18. A new section of KRS Chapter 67A is created to read as follows:

Each annual improvement assessment, with any penalty or interest incident to the nonpayment thereof, shall constitute a lien upon the lot or parcel of benefited property against which it is assessed. The lien shall attach to each lot or parcel of benefited property as the same is described by the owner's deed of record in the county court clerk's office at the time of the publication of the Third Ordinance, as herein provided, and thereupon shall take precedence over all other liens, whether created prior to or subsequent to the publication of said ordinance, except state and county taxes, general municipal taxes, and prior improvement taxes and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the governing body shall exempt any benefited property from its share of the improvement assessment, or from the payment thereof, or from the penalties or interest thereon, as herein provided. No error in the proceedings of the governing body shall exempt any property from liability for payment of any annual improvement assessment, or for any interest or penalty incident to nonpayment thereof. The urban county's governing body, or any court of competent jurisdiction, shall have power to make such rules and orders as may be required to do justice to all parties.

Section 19. A new section of KRS Chapter 67A is created to read as follows:

The proceeds received by the urban county government from each and every annual improvement assessment levy made in connection with each separate improvement project, as authorized by this Act, shall be segregated from and kept always separate and apart from all other receipts of the urban county government from any and all other sources, and shall be deposited in a separate and special account in a financial institution in an account so specially designated by number or other designation as to identify the same in such manner as to distinguish the receipts and deposits from each such project from the receipts and deposits from every other such project, and from any and every other account or fund of the urban county

government. The same shall constitute the "sinking fund" referred to in this Act. The funds shall be deposited in an interest bearing account, at the rate of interest prevailing at the time of such deposit. When the bonds become due, funds shall be transferred to the account from which the bonds shall be paid.

Section 20. A new section of KRS Chapter 67A is created to read as follows:

All sums received and deposited in the sinking fund shall be held inviolate and applied by the urban county government solely for the payment of the principal of, and interest on, the bonds issued for the financing of the identified improvement project. The amount collected, and deposited in the sinking fund from the first improvement assessment levied in connection with any project, in excess of maturing principal and interest of the bonds, and for the purpose of creating a "debt service reserve," shall be held in the sinking fund for that purpose.

Section 21. A new section of KRS Chapter 67A is created to read as follows:

If the urban county government shall adopt the Third Ordinance, herein referred to, and shall publicly solicit the submission of bids or proposals for the purchasing of its "improvement assessment bonds" for the project identified therein, and shall fail to receive a bid upon terms of price and/or interest coupon rate, or rates, conforming to the published notice and acceptable to the governing body, the bonds, or a portion thereof, may be awarded to the contractor, or contractors, at a price of not less than the minimum price permitted by the said published notice, and bearing one or more interest coupon rates not exceeding the rate, or rates, permitted in the said published notice but only upon the following conditions:

(1) The entire bond issue authorized by the Third Ordinance may be awarded to the contractor, or contractors, if it or they shall submit to, and obtain formal approval by, the governing body of the urban county government, of a written undertaking (approval as to form and substance by the government's duly designated legal counsel), (a) agreeing to accept in full an agreed payment of the amount, or the aggregate of the amounts, of their respective contracts, bonds as authorized by the Third Ordinance equal in principal amount (or as near thereto as may be practicable) to the amount, or the aggregate of the amounts of their contracts (in which event such bonds shall be the latest maturing and highest numbered of the bonds authorized by the Third Ordinance), and (b) agreeing to pay to the urban county government, in cash, the purchase price of the bonds to the extent that the same exceeds the aggregate amount of the contracts of the contractor, or contractors, who are signatories of such written instrument; or

(2) Bonds equal to the amount, or amounts, of the contracts of the contractor, or contractors, who are signatories of a written instrument agreeing to accept the same in payment thereof, approved as to form and substance by the urban county government's properly designated legal counsel, may be awarded to such contractor, or contractors, in the event the urban county government is able to, and does, (within constitutional restrictions) appropriate from available funds a sum in cash sufficient to defray all costs of the project, as defined in this Act, in excess of the amount of such construction contract, or the aggregate of the several contracts. In such event, the sum so appropriated by the governing body of the urban county government shall be applied to the payment of such costs;

(3) In the event of procedure as set forth in either subsection (1) or (2) of this section, the bonds awarded to the contractor, or contractors (other than those paid for in cash as set forth in the foregoing subsection (1)), shall be placed by the urban county government, in escrow, with a responsible financial institution, with written instructions that the same may be released to the contractor, or contractors, from time to time, but in principal amount not exceeding seventy-five percent (75%) of the amount certified in writing by the engineer, or engineers, to the said escrow agent, and the urban county government, to have been theretofore earned by and payable to the identified contractor, or contractors, under the terms and conditions of their respective contracts. Upon final approval and acceptance of the project by the governing body, the reserved twenty-five percent (25%) of such bonds may be released and delivered to such contractor, or contractors.

Section 22. A new section of KRS Chapter 67A is created to read as follows:

If, by reason of miscalculation or the happening of unforeseen events or conditions, the proceeds of the bonds authorized by the Third Ordinance should prove to be insufficient to provide for the completion of the project and the payment in full of all costs thereof, the governing body shall be authorized to reassess all properties and collect in cash or to issue and sell additional bonds sufficient to make up the deficiency, and such additional bonds shall rank on a parity as to security and source of payment with the bonds originally authorized.

Section 23. A new section of KRS Chapter 67A is created to read as follows:

The amount of the annual assessment collected and the debt service reserve and any interest earned therefrom shall remain in the sinking fund. When the amount in the sinking fund is sufficient to retire bonds at maturity, assessments shall cease. In the event of a surplus after all bonds have been retired, the surplus shall be returned on a pro rata basis to the property owners if in excess of one dollar per property. If less than one dollar, the surplus shall be transferred to the general fund of the urban county government.

Section 24. A new section of KRS Chapter 67A is created to read as follows:

If an urban county government has taken any steps under this Act to provide for, construct or finance any improvements allowed to be undertaken by the provisions of this Act, and for any reason the project cannot be completed according to the provisions of this Act, the governing body may:

(1) Abandon the project, in which case all prepayments shall be returned. Any interest earned on prepayments may also be returned or retained and applied to any cost resulting from the effort to complete the project.

(2) The governing body may proceed in any manner authorized by law, to complete the project. In this case all prepayments and any interest earned shall be returned on a pro rata basis. All expenses resulting from the effort to complete the project under the provisions of this Act, shall be added to the total cost of the completed project.

HB 570, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 92.403 is amended to read as follows:

(1) In all cities *except cities of the first* [of the second] class, whether operating under the councilmanic form of government, or under the commission or city manager form of government, an annual audit of all the accounts of all city officers and of officers of municipally owned utilities, shall be made at the termination of each fiscal year. The legislative body of the city and the officers of the municipally owned utilities shall select, to make the audits, qualified public accountants who have no personal interest in the financial affairs of the city or of any of its officers or employees, and shall cause a summary of each audit to be published pursuant to KRS chapter 424. The summary of each audit shall contain a balance sheet, profit and loss statement, and shall show the bonded indebtedness and any discrepancy disclosed by the audit. A copy of the audit of each officer or agency shall be kept on file in the respective offices. Within one (1) week after publication of the audit, a complete copy of each audit shall be filed in the office of the county court clerk. The legislative body may at any time provide for an examination or audit of the accounts of any officer or department of the city.

(2) Compliance with the provisions of this section [and KRS 92.405] shall be in lieu of the requirements of KRS 424.220.

Section 2. KRS 424.220 is amended to read as follows:

Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city [of the second class] that is required by law to publish an annual audit of its financial affairs *pursuant to KRS 92.403*, every public officer of any school district, [city,] county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds; and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within thirty days after publication, the officer shall file with the Auditor of Public Accounts a copy of the newspaper containing the statement.

Section 3. KRS 92.405 is repealed.

The Committee on Rules reported **HB 489**, **HB 40** with Committee Substitute attached thereto, **HB 271** with Committee Amendment attached thereto, **HB 237**, **HB 262**, **SB 105**, **HB 395**, **HR 25**, **HB 2** with Committee Substitute attached thereto, **HCR 8**, **HB 320** with Committee Amendment attached thereto, **SB 51**, **SB 126**, **HB 503** with Committee Amendment attached thereto, **HB 521**, **HB 544**, **HB 368** with Committee

Amendment attached thereto, **HB 379** with Committee Substitute attached thereto, **HB 398**, **SB 11** and **SB 25** have been posted for passage in Orders of the Day, February 27, 1974.

The Committee on Rules reported **HB 481** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **HR 2** has been recommitted to the Committee on State Government for comparison with legislation now pending before the Committee.

The Committee on Rules reported **HB 259** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **SB 75** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **HB 510** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal implication.

The Committee on Rules reported **HB 447** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **HB 432** has been recommitted to the Committee on Judiciary for further study.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 515**, **HB 529**, **HB 543**, **HB 554**, **HB 589**, **HB 590**, **HB 647**.

Health and Welfare: **HB 587**, **HB 588**, **HB 608**, **HB 649**, **HB 479**, **HR 50**, **SB 158**.

Business Organizations and Professions: **SB 100**, **SB 117**, **HB 648**.

Motions, Petitions and Communications

Representative Karem moved that **HB 467** be taken from the Clerk's desk and made the first order of business in Orders of the Day.

On the roll call the vote was yeas 53-Allen, Bennett, Benson, Blume, Blythe, Bowles, E. Brown, R. Brown, Chandler, Clapp, Clarke, DeMarcus, Dietz, Dunn, Graves, Guenther, Hardin, Harris, Hellard, Hislope, Holbrook, Isler, Karem, Kenton, King, Lindsay, Loudon, Mann, McBee, McBrayer, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Thomas, Troop, Turner, Wells, Whitfield, Yates. Nays 30-Adams, Arnold, Blandford, Brewer, Crupper, Davis, Denham, Foster, Freeman, Gay, Givhan, Hancock, Hughes, Hurst, Imes, Kafoglis, Little, Mason, Maynard, Nett, Roberts, Robinson, Sale, Stone, Swinford, Van Horn, Vincent, G. White, J. White, Wible.

The motion that **HB 467** be taken from the Clerk's desk and made the first order of business in Orders of the Day was adopted.

Representative Hellard moved the adoption of the following Legislative Citation No. 94:

The House of Representatives of the Commonwealth of Kentucky hereby commends Coach Ron Becker for his ability in coaching the Woodford County wrestling team to three straight State Wrestling Championships--1972, 1973 and 1974, and extends congratulations to Coach Becker for this remarkable accomplishment. (Sponsored by Representative Hellard)

Agreed.

Representative Hellard moved the adoption of the following Legislative Citation No. 95:

The House of Representatives of the Commonwealth of Kentucky hereby honors Jeff Fitch for his outstanding ability in wrestling as evidenced by one hundred and one straight wins in wrestling competition. This body commends Jeff Fitch for having been named the Outstanding Wrestler of the State Meet for 1973 and 1974, and performing as a member of the Woodford County High School wrestling team, which won the State Wrestling Championship for 1972, 1973 and 1974.

This body extends best wishes for future success in this fine young man's career. (Sponsored by Representative Hellard)

Agreed.

Representative Hellard moved the adoption of the following Legislative Citation No. 101:

The House of Representatives of the Commonwealth of Kentucky hereby commends the Woodford County High School Players for having received the Best Play Award at the Regional Drama Festival held at Eastern Kentucky University. This body recognizes the able direction of John W. Renfro in the Players' presentation of 'The Creation of the World and Other Business' and congratulates Mike Etherington for having received the Best Actor Award for his portrayal of Lucifer. (Sponsored by Representative Hellard)

Agreed.

Representative Hellard moved the adoption of the following Legislative Citation No. 102:

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the members of the Woodford County High School wrestling team for having won the State Wrestling Championship for 1974. This body commends the team members--Bruce Boggs, Wayne Campbell, Mike Carey, Jeff Fitch, Billy McDaniel, George Smith, Doug Stratton and Johnny Thomas--for this outstanding team accomplishment and recognizes that this is the third straight State Championship and a total of four State Wrestling Championships that Woodford County has won. (Sponsored by Representative Hellard)

Agreed.

Orders of the Day

HB 467 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved the adoption of the following Floor Amendment No. 3 to **HB 467**:

Amend printed copy of House Bill 467 page 1, line 15 by deleting the word "any" before the word "rate" and substituting in lieu thereof the word "a", and by adding after the word "rate" the following: "not in excess of nine per cent per annum, including points or other discount."

On the roll call the vote was yeas 36--Adams, Allen, Arnold, Blandford, Brewer, Bruce, Burch, Crupper, Davis, Dawahare, Denham, Freeman, Gay, Givhan, Guenther, Hancock, Hellard, Hislope, Hughes, Hurst, Kafoglis, Mason, May, Maynard, Robinson, Sale, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible. Nays 52--Bennett, Benson, Beshear, Blume, Blythe, Bowles, E. Brown, Chandler, Clapp, Clarke, DeMarcus, Dietz, Dunn, Foster, Graves, Hardin, Harris, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kareem, Kenton, King, Kleier, Lewis, Little, McBee, McBrayer, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Turner, Wells, Yates.

The Floor Amendment No. 3 to **HB 467** was rejected.

Representative Freeman moved the adoption of the following Floor Amendment No. 2 to **HB 467**:

Amend printed copy of House Bill 467 page 1, line 13 and 18 to delete the word "*fifteen*" and to insert in lieu thereof the word "*thirty*"

On the roll call the vote was yeas 34-Adams, Allen, Blandford, Brewer, Bruce, Burch, Crupper, Davis, Dawahare, Denham, Freeman, Gay, Givhan, Hancock, Hellard, Hughes, Hurst, Imes, Kafoglis, Little, Mason, May, Maynard, Nett, Robinson, Sale, Stone, Swinford, VanHorn, Vincent, Watkins, G. White, J. White, Wible. Nays 52-Benson, Beshear, Blume, Blythe, Bowles, E. Brown, Chandler, Clapp, Clarke, DeMarcus, Dietz, Dunn, Foster, Graves, Guenther, Hardin, Harris, Head, Hislope, Holbrook, Holloway, Hopkins, Isler, Karem, Kenton, Kidd, King, Kleier, Lewis, McBee, McBrayer, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Reynolds, Roberts, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Turner, Wells, Whitfield, Yates.

The Floor Amendment No. 2 to **HB 467** was rejected.

Representative Maynard moved that **HB 467** be laid on the table.

On the roll call the vote was yeas 35-Adams, Allen, Blandford, Brewer, Burch, Crupper, Davis, Dawahare, Denham, Freeman, Gay, Givhan, Hancock, Hughes, Hurst, Imes, Kafoglis, Little, Mason, May, Maynard, Nett, O'Brien, Priddy, Roberts, Robinson, Sale, Stone, Swinford, Van Horn, Vincent, Watkins, G. White, J. White, Wible. Nays 46-Benson, Blume, Blythe, Bowles, E. Brown, R. Brown, Chandler, Clapp, Clarke, DeMarcus, Dietz, Dunn, Graves, Hardin, Harris, Head, Hislope, Holbrook, Holloway, Isler, Karem, Kenton, Kleier, Lewis, Lindsay, McBee, McBrayer, McGill, Morgan, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Turner, Whitfield, Yates.

The motion that **HB 467** be laid on the table was rejected.

Representative Karem moved that **HB 467** be placed upon its passage.

On the roll call the vote was yeas 51-Bennett, Benson, Blume, Blythe, Bowles, E. Brown, R. Brown, Chandler, Clapp, Clarke, DeMarcus, Dunn, Foster, Graves, Hardin, Harris, Head, Hislope, Holbrook, Holloway, Hopkins, Isler, Karem, Kenton, Kidd, King, Kleier, Loudon, McBee, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Turner, Wells, Whitfield, Yates. Nays 38-Adams, Allen, Beshear, Blandford, Brewer, Bruce, Burch, Crupper, Davis, Dawahare, Denham, Freeman, Gay, Givhan, Hancock, Hellard, Hughes, Hurst, Imes, Kafoglis, Lewis, Little, Mann, Mason, May, Maynard, McBrayer, Nett, Roberts, Robinson, Sale, Stone, Swinford, Van Horn, Watkins, G. White, J. White, Wible.

HB 467 was passed and the title agreed to.

Representative Karem moved that the vote by which **HB 467** was passed by reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 46-Adams, Bennett, Benson, Blume, Blythe, E. Brown, R. Brown, Chandler, Clapp, Clarke, DeMarcus, Dunn, Graves, Hardin, Harris, Head, Holbrook, Isler, Karem, Kenton, King, Kleier, Loudon, McBee, McBrayer, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Thomas, Troop, Turner, Wells, Yates. Nays 36-Allen, Beshear, Blandford, Brewer, Bruce, Burch, Crupper, Davis, Denham, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hellard, Hughes, Hurst, Imes, Kafoglis, Lewis, Little, Mason, May, Maynard, Nett, Roberts, Robinson, Sale, Stone, Swinford, Van Horn, Vincent, G. White, J. White, Wible.

The motion that the vote by which **HB 467** was passed be reconsidered and said motion be postponed indefinitely was adopted.

Representative Swinford moved that consideration of **HB 304**, **HB 386**, and **HR 30** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 212 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 212** be placed upon its passage.

On the roll call the vote was yeas 68-Bennett, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dietz, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Thomas, Turner, VanHorn, Vincent, Watkins, Wible. Nays 7-Allen, Arnold, DeMarcus, Denham, Richardson, Robinson, Swinford.

HB 212 was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 212** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 289**, **HB 96** with Committee Amendment attached thereto, **HB 21** with Committee Amendment attached thereto, and **SB 87** be deferred and that they retain their position in Orders of the Day. Agreed.

The Speaker Pro Tempore assumes the Chair.

HB 121, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Amendment No. 1 to **HB 121**. Agreed.

On the roll call the vote was yeas 49-Allen, Arnold, Bennett, Beshear, Blume, Blythe, Bruce, Chandler, Clapp, Clarke, Crupper, Dietz, Dunn, Givhan, Graves, Hancock, Harris, Head, Hopkins, Imes, Isler, Kafoglis, Karem, Kidd, King, Loudon, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, O'Brien, Quickert, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Siemens, Stephens, Swinford, Troop, Van Horn, Watkins, G. White, Whitfield, Wible. Nays 23-Adams, Blandford, Brewer, Davis, Dawahare, DeMarcus, Denham, Foster, Gay, Hardin, Holbrook, Holloway, Hughes, Hurst, Little, Overstreet, Pearman, Roberts, Robinson, Sale, Smith, Stone, Vincent.

HB 121 as amended was defeated.

Representative Swinford moved that the vote by which **HB 121** as amended was defeated be reconsidered. Agreed.

Representative Swinford moved that **HB 121** as amended be placed upon its passage.

On the roll call the vote was yeas 52-Allen, Arnold, Bennett, Beshear, Blume, Blythe, R. Brown, Bruce, Chandler, Clapp, Crupper, Dietz, Dunn, Givhan, Graves, Hancock, Harris, Head, Hopkins, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Loudon, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, O'Brien, Paxton, Quickert, Reynolds, Richardson, Schmaedecke, Schmidt, Stephens, Swinford, Troop, Van Horn, Vincent, Watkins, G. White, Whitfield, Wible. Nays 21-Adams, Blandford, Brewer, Dawahare, DeMarcus, Denham, Foster, Hardin, Holbrook, Holloway, Hughes, Little, May, Pearman, Roberts, Robinson, Sale, Sharpe, Stone, Thomas, J. White.

HB 121 as amended was passed and the title agreed to.

Representative Blythe moved that the vote by which **HB 121** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 125** and **HB 166** be deferred and that they retain their position in Orders of the Day. Agreed.

The Speaker resumed the Chair.

HB 168, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved the adoption of the Committee Amendment No. 1 to **HB 168**. Agreed.

Representative Swinford moved that **HB 168** as amended be placed upon its passage.

On the roll call the vote was yeas 74-Allen, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 1-Lindsay.

HB 168 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 168** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 169 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that **HB 169** be placed upon its passage.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Clapp, Crupper, Davis, Dawahare, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 2-DeMarcus, Quickert.

HB 169 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 169** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 233, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Amendment No. 1 to **HB 233**. Agreed.

Representative Blythe moved that **HB 233** as amended be placed upon its passage.

On the roll call the vote was yeas 45-Adams, Arnold, Beshear, Blume, Blythe, Bowles, Brewer, R. Brown, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Foster, Graves, Guenther, Hancock, Harris, Head, Imes, Isler, Kenton, Kidd, King, Loudon, Mann, Mason, Maynard, McBee, McBride, Morgan, O'Brien, Paxton, Quickert, Sale, Schmaedecke, Schmidt, Sharpe, Swinford, Thomas, Troop, Van Horn, Whitfield, Wible. Nays 26-Allen, Blandford, Dawahare, Denham, Hellard, Hislope, Holloway, Hughes, Hurst, Kafoglis, Lewis, Lindsay, Little, May, McBrayer, Overstreet, Pearman, Rattliff, Richardson, Roberts, Robinson, Stephens, Stone, Vincent, Watkins, J. White.

HB 233 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 233** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 238, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved the adoption of the Committee Amendment No. 1 to **HB 238**. Agreed.

Representative Freeman moved that **HB 238** as amended be placed upon its passage.

On the roll call the vote was yeas 74-Adams, Arnold, Bennett, Beshear, Blandford, Blume, Bowles, R. Brown, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynold, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Whitfield, Wible. Nays 4-Denham, Hurst, Imes, Karem.

HB 238 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 238** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 332 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Brown moved that **HB 332** be placed upon its passage.

On the roll call the vote was yeas 81-Adams, Arnold, Bennett, Beshear, Blandford, Blume, Bowles, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Whitfield, Wible. Nays 0.

HB 332 was passed and the title agreed to.

Representative R. Brown moved that the vote by which **HB 332** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 393 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that **HB 393** be placed upon its passage.

Representative McBrayer moved that **HB 393** be laid on the Clerk's desk.

Representative Karem moved that the motion that **HB 393** be laid on the Clerk's desk be laid on the table.

On the roll call the vote was yeas 34-Adams, Arnold, Bennett, Blume, Bowles, Burch, Chandler, Clarke, Dietz, Dunn, Graves, Harris, Head, Holloway, Hopkins, Kafoglis, Karem, Kidd, McBee, McBride, O'Brien, Paxton, Quickert, Reynolds, Richardson, Sale, Schmaedecke, Schmidt, Siemens, Swinford, Thomas, Van

Horn, Wible, Yates. Nays 44-Allen, Blandford, Brewer, R. Brown, Bruce, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Freeman, Gay, Givhan, Hancock, Hellard, Holbrook, Hughes, Hurst, Imes, Isler, Kenton, King, Lewis, Lindsay, Mann, Mason, May, McBrayer, McGill, Morgan, Overstreet, Rattliff, Roberts, Robinson, Romines, Smith, Stephens, Stone, Troop, Vincent, G. White, J. White, Whitfield.

The motion that the motion that **HB 393** be laid on the Clerk's desk be tabled was rejected.

On the roll call the vote was yeas 36-Allen, Arnold, R. Brown, Bruce, Clapp, Dawahare, Denham, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Hislope, Holbrook, Hurst, Imes, Isler, King, Lewis, Lindsay, Mason, May, McBrayer, Morgan, Overstreet, Rattliff, Richardson, Robinson, Smith, Stone, Thomas, Troop, Vincent, J. White, Whitfield. Nays 44-Bennett, Benson, Blandford, Blume, Blythe, Bowles, E. Brown, Burch, Chandler, Clarke, Crupper, Dietz, Dunn, Foster, Graves, Harris, Head, Holloway, Hopkins, Hughes, Kafoglis, Kleier, Little, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Quickert, Reynolds, Roberts, Romines, Sale, Schmidt, Siemens, Stephens, Swinford, VanHorn, Watkins, Wells, Wible, Yates.

The motion that **HB 393** be laid on the Clerk's desk was rejected.

Representative J. White moved that the rules be suspended for the purpose of offering an amendment to **HB 393**.

On the roll call the vote was yeas 28-Allen, E. Brown, R. Brown, Bruce, Clapp, Davis, Dawahare, Freeman, Givhan, Hancock, Hardin, Hellard, Holbrook, Isler, King, Mason, McBrayer, Morgan, Overstreet, Pearman, Rattliff, Robinson, Schmidt, Smith, Stone, Troop, Vincent, J. White. Nays 46-Benson, Beshear, Blandford, Blume, Blythe, Bowles, Burch, Chandler, Clarke, Crupper, Denham, Dietz, Dunn, Foster, Graves, Head, Hislope, Holloway, Hughes, Kafoglis, Karem, Kenton, Kleier, Little, Mann, Maynard, McBee, McBride, McGill, Nett, O'Brien, Paxton, Priddy, Quickert, Richardson, Roberts, Romines, Sale, Sharpe, Siemens, Stephens, Swinford, VanHorn, Wells, Wible, Yates.

The motion that the rules be suspended for the purpose of offering an amendment to **HB 393** was rejected.

Representative Holbrook moved that **HB 393** be sent to the Committee on State Government.

On the roll call the vote was yeas 40-Allen, Arnold, E. Brown, R. Brown, Bruce, Clapp, Davis, Dawahare, DeMarcus, Denham, Foster, Freeman, Gay, Givhan, Hancock, Hardin, Hellard, Hislope, Holbrook, Hughes, Imes, Isler, King, Lindsay, Mason, May, McBrayer, Morgan, Overstreet, Rattliff, Robinson, Schmaedecke, Schmidt, Stephens, Stone, Troop, Vincent, Watkins, J. White, Whitfield. Nays 48-Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Burch, Chandler, Clarke, Crupper, Dietz, Dunn, Graves, Guenther, Harris, Head, Hopkins, Kafoglis, Karem, Kenton, Kidd, Kleier, Little, Mann, Maynard, McBee, McBride, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Siemens, Smith, Swinford, Thomas, Van Horn, Wells, G. White, Wible, Yates.

The motion that **HB 393** be sent to the Committee on State Government was rejected.

Representative Stone moved that consideration of **HB 393** be deferred until March 1, 1974.

On the roll call the vote was yeas 28-Allen, E. Brown, R. Brown, Bruce, Dawahare, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Hislope, Holbrook, Isler, King, Mason, May, McBrayer, Overstreet, Rattliff, Robinson, Schmaedecke, Schmidt, Smith, Stone, Troop, Vincent, J. White. Nays 53-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Burch, Chandler, Clapp, Clarke, Crupper, Denham, Dietz, Dunn, Foster, Guenther, Harris, Head, Hellard, Hughes, Kafoglis, Karem, Kenton, Kidd, Lewis, Little, Loudon, Mann, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Siemens, Stephens, Swinford, Van Horn, Wells, Whitfield, Wible, Yates.

The motion that consideration of **HB 393** be deferred until March 1, 1974 was rejected.

Representative Gay moved that the House adjourn until 2:00 P.M., February 27, 1974.

On the roll call the vote was yeas 19-E. Brown, R. Brown, Bruce, Dawahare, DeMarcus, Denham, Freeman, Gay, Hancock, Holbrook, Kenton, Lindsay, Loudon, McBrayer, Schmaedecke, Schmidt, Stone, Troop, J. White. Nays 62-Arnold, Bennett, Benson, Beshear, Blume, Blythe, Bowles, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dietz, Dunn, Foster, Givhan, Graves, Guenther, Harris, Head, Hellard, Hughes, Imes, Isler, Kafoglis, Karem, Kidd, King, Lewis, Little, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Sharpe, Siemens, Smith, Stephens, Swinford, Van Horn, Vincent, Watkins, Whitfield, Wible, Yates.

The motion that the House adjourn until 2:00 P.M., February 27, 1974 was rejected.

On the roll call the vote was yeas 85-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible Yates. Nays 5-Allen, Bruce, DeMarcus, Overstreet, J. White.

HB 393 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 393** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 444** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 462 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 462** be placed upon its passage.

On the roll call the vote was yeas 54-Bennett, Benson, Beshear, Blandford, Blume, Blythe, E. Brown, Burch, Chandler, Clarke, Davis, Dawahare, Denham, Dietz, Dunn, Foster, Head, Hellard, Hislope, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Mann, May, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Paxton, Priddy, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Van Horn, Vincent, Whitfield, Wible. Nays 20-Bowles, Bruce, Crupper, Freeman, Gay, Graves, Hancock, Harris, Holbrook, Little, Loudon, Mason, Pearman, Rattliff, Richardson, Stone, Thomas, Watkins, G. White, J. White.

HB 462 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 462** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 476** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 485, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved the adoption of the Committee Amendment No. 1 to **HB 485**. Agreed.

Representative McBee moved that **HB 485** as amended be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Gay, Givhan, Graves, Hancock, Harris, Head,

Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 485 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 485** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 517 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmidt moved the adoption of the Committee Amendment No. 1 to **HB 517**. Agreed.

Representative Schmidt moved the adoption of **HB 517** as amended.

On the roll call the vote was yeas 67-Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Dietz, Dunn, Foster, Gay, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Hopkins, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McGill, Nett, O'Brien, Pearman, Quickert, Rattliff, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Van Horn, Vincent, Watkins, G. White, Wible. Nays 11-Guenthner, Holloway, Hughes, Imes, McBrayer, McBride, Paxton, Priddy, Reynolds, Richardson, Stone.

HB 517 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 517** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 555 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Robinson moved that **HB 555** be placed upon its passage.

On the roll call the vote was yeas 92-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 0.

HB 555 was passed and the title agreed to.

Representative Robinson moved that the vote by which **HB 555** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 571 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 571** be placed upon its passage.

On the roll call the vote was yeas 46-Adams, Bennett, Benson, Beshear, Blume, Blythe, R. Brown, Burch, Clapp, Clarke, Crupper, Dietz, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Hellard, Imes,

Isler, Kafoglis, Lewis, Little, Mann, Mason, McBride, McGill, Morgan, Overstreet, Pearman, Paxton, Priddy, Reynolds, Richardson, Romines, Sale, Schmaedecke, Stone, Swinford, Troop, Vincent, Watkins, G. White, Wible. Nays 33-Allen, Arnold, Blandford, Brewer, E. Brown, Chandler, Davis, Dawahare, DeMarcus, Denham, Freeman, Gay, Guenther, Holbrook, Holloway, Hopkins, Hughes, Hurst, Karem, Kidd, Loudon, May, McBee, Nett, O'Brien, Roberts, Robinson, Sharpe, Smith, Thomas, Van Horn, J. White, Yates.

HB 571 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 571** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HJR 19 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved that **HJR 19** be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 0.

HJR 19 was passed and the title agreed to.

Representative Swinford moved that consideration of **HR 25** be deferred and that it retain its position in Orders of the Day.

HR 39 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kafoglis moved the adoption of **HR 39**.

Adopted by voice vote.

HR 49 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of **HR 49**.

Adopted by voice vote.

Representative Swinford moved that the House concur in the following Senate amendment to **HB 39** by way of Senate Committee Substitute to **HB 39**:

HB 39, AN ACT relating to the salaries of city mayors and commissioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 89.480 is amended to read as follows:

(1) In a city of the first class which has voted to be organized and governed under the city manager form of government, pursuant to the provisions of KRS 89.410 and KRS 83.670 the mayor and the

commissioners shall receive an annual salary to be fixed by the board of aldermen at the time of its decision to be organized and governed under the city manager form of government.

(2) In a city of the second class which has been reclassified as a city of the first class and which has been governed under the city manager form of government prior to reclassification and has retained the city manager form of government, the mayor shall receive an annual salary of \$12,000 and each commissioner shall receive an annual salary of \$9,000.

(3) In cities of the second class the mayor shall receive an annual salary of not more than \$7,200, and each commissioner shall receive an annual salary of not more than \$6,000, to be fixed by the city legislative body.

(4) In cities of the third and fourth classes the mayor shall receive an annual salary of not more than \$4,000 [\$750], and each commissioner shall receive an annual salary of not more than \$3,000 [\$500].

(5) In cities of the third and fourth classes the board of commissioners may reduce the annual salary of the mayor or the commissioners to an amount not less than one dollar.

Section 2. KRS 82.070 is amended to read as follows:

The compensation paid to members of the legislative bodies of all cities which operate under the councilmanic form of government shall be fixed by the legislative bodies of such cities in a sum not to exceed \$3,000 *per annum* [fifteen dollars (\$15.00) per actual legislative day]. This section shall not apply to cities of the first class nor to cities of the fourth class.

Section 3. KRS 86.053 is amended to read as follows:

The compensation paid to members of the legislative bodies of cities of the fourth class which operate under the councilmanic form of government shall be fixed by the legislative bodies of such cities in a sum not to exceed \$3,000 *per annum* [twenty-five dollars (\$25.00) per actual legislative day].

Section 4. KRS 89.110 is amended to read as follows:

(1) In cities of the second class the mayor shall receive an annual salary of \$4,000, and each commissioner shall receive an annual salary of \$3,600.

(2) In cities of the third class the mayor [and each commissioner] shall receive an annual salary of not [less than \$500 nor] more than \$4,000 [\$3,000] and each commissioner shall receive an annual salary of not more than \$3,000, to be fixed in the question submitted to the voters as provided in KRS 89.030 (3), subject to change thereafter, within the above limits, by ordinance of the board of commissioners, which ordinance shall be submitted to the voters, the same as if a petition for referendum had been filed in the manner provided in KRS 89.230 and 89.240; also subject to change, within the above limits, by initiative proceedings as provided in KRS 89.250.

(3) In cities of the fourth class the mayor, police judge and commissioners shall each receive an annual salary, for their first term under the commission form of government, in the amount fixed in the question submitted to the voters as provided in KRS 89.030 (4). Thereafter, at least sixty (60) days before the day for holding the primary election provided for by KRS 89.060, the board of commissioners shall, by ordinance, fix the salary of the mayor, police judge and commissioners to be elected at the next regular election. The salaries so fixed for each office shall not be less than the salaries then being paid for that office; the salary of the mayor shall not exceed \$4,000 [\$1,200] per annum, and the salary of the police judge and each commissioner shall not exceed \$3,000 [\$1,000] per annum. If the board of commissioners fails to fix the salaries as provided in this section, the salary of each newly elected officer shall be the same as that of his predecessor.

Section 5. A new section of KRS Chapter 89 is created to read as follows:

In order to equate current compensation for services of elected city officials with the purchasing power of the dollar and to keep abreast of such compensation's initial value and purchasing power, the city legislative body may, on or before September 1, 1974, adjust within the limits of KRS 82.070, 86.053, 89.110 and 89.480, the compensation of the mayor and commissioners.

Agreed.

Representative G. White moved that HB 39 as amended by way of Senate Committee Substitute be placed upon its passage.

On the roll call the vote was yeas 70-Adams, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, Denham, Dietz, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Holbrook, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Quickert, Reynolds, Roberts, Romines, Sale, Sharpe, Siemens, Smith, Stephens, Swinford, Troop, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 13-Allen, Bruce, Davis, DeMarcus, Hopkins, Lindsay, Overstreet, Richardson, Robinson, Stone, Thomas, VanHorn, J. White.

HB 39 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 39** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that the House concur in the following Senate Amendment to **HB 216**:

Amend printed copy of House Bill 216 as follows:

Page 4, line 6, following "board" by inserting: *"however, members who were taken prisoner by a hostile power at any time during their active military service shall receive current service credit without payment of the current employe contribution ratio"*

Agreed.

Representative Swinford moved that the House deny the request of the Senate to return **HB 216**. Agreed.

Representative Swinford moved that **HB 216** as amended be placed upon its passage.

On the roll call the vote was yeas 69-Allen, Arnold, Bennett, Benson, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Freeman, Gay, Graves, Guenther, Hancock, Hardin, Harris, Head, Holbrook, Holloway, Hopkins, Imes, Isler, Kenton, Kidd, Kleier, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Priddy, Quickert, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Swinford, VanHorn, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 15-Beshear, Clarke, Givhan, Hellard, Kafoglis, Karem, Lindsay, Nett, Overstreet, Richardson, Stephens, Stone, Troop, Vincent, Whitfield.

HB 216 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 216** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 53**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage. Agreed.

Representative Karem moved that the House concur in the following Senate Amendment No. 1 to **HB 53**:

Amend printed copy of House Bill 53 as follows:

and on page 1-Title, line Title, by striking the title in its entirety and inserting in lieu thereof the following:

"AN ACT deleting provisions which are racially discriminatory."

Agreed.

Representative Karem moved that the House concur in the following Senate Amendment No. 2 to **HB 53**:

Amend printed copy of House Bill 53 as follows:

Page 1, lines 5 and 6, by deleting "the qualifications of their successors" and by adding therefor *"their successors are appointed and qualified"*

Agreed.

Representative Swinford moved¹ that **HB 53** as amended be placed upon its passage.

On the roll call the vote was yeas 66-Bennett, Benson, Beshear, Blandford, Blume, Blythe, E. Brown, R. Brown, Burch, Chandler, Clarke, Crupper, Dawahare, DeMarcus, Dietz, Dunn, Freeman, Givhan, Graves, Hancock, Hardin, Head, Hellard, Holbrook, Hopkins, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, VanHorn, Vincent, Watkins, Whitfield, Wible, Yates. Nays 7-Adams, Allen, Bruce, Denham, Foster, Harris, Robinson.

HB 53 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 53** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 75**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage. Agreed.

Representative Givhan moved that the House concur in the following Senate Amendment to **HB 75**:

Amend printed copy of House Bill 75 as follows:

Page 8, line 23 through 25 by striking lines 23 through 25 in their entirety

and on page 9, lines 1 through 11, by striking lines 1 through 11 in their entirety and substituting therefor the following:

"All law enforcement officials shall enforce the traffic regulations contained in KRS Chapter 189 on off-street parking facilities offered for public use, except for-hire parking facilities listed in KRS 189.700."

Agreed.

Representative Swinford moved that **HB 75** as amended be placed upon its passage.

On the roll call the vote was yeas 63-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Chandler, Clarke, Davis, Denham, Dietz, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Holbrook, Holloway, Imes, Isler, Kafoglis, Kidd, Kleier, Mann, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stone, Swinford, Thomas, VanHorn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 2-Hellard, Little.

HB 75 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 75** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 204**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage.

Representative Dunn moved that the House concur in the following Senate Amendment to **HB 204**:

Amend printed copy of House Bill 204 as follows:

Page 2, line 8, by deleting "*major*"; and on line 10 after "*commissioner*" by adding "*, where a primary election is required for such political party,*" and after "*shall*" by deleting "*, in the primary election,*".

Agreed.

Representative Swinford moved that **HB 204** as amended be placed upon its passage.

On the roll call the vote was yeas 67-Adams, Allen, Arnold, Bennett, Beshear, Blandford, Blume, Brewer, E. Brown, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Denham, Dietz, Dunn, Foster, Givhan, Graves, Hardin, Harris, Head, Hellard, Holbrook, Imes, Isler, Kafoglis, Kidd, King, Kleier, Little, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stone, Swinford, Troop, VanHorn, Vincent, Wells, J. White, Whitfield, Wible, Yates. Nays 3-Hancock, Mann, Richardson.

HB 204 as amended was passed and the title agreed to.

The Speaker moved that **HB 477** be taken from the Committee on State Government and committed to the Committee on Labor and Industry. Agreed.

Representative Loudon moved that the rules be suspended for introduction of and action on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 68, by Representatives Loudon, Crupper and McBee: A RESOLUTION adjourning the House of Representatives in memory of June L. Suter.

WHEREAS, June L. Suter, former Sergeant-at-Arms of the Senate, has departed this earthly life; and

WHEREAS, those who knew and served with this honorable gentlemen will ever recall his thoughtfulness, kindness and cooperation; and

WHEREAS, Mr. Suter served with distinction for some ten years as Gallatin County Democratic Chairman; and

WHEREAS, it is now befitting the House of Representatives to take due note and express its regret on the passing of one of the ablest former employees of this General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, February 26, 1974, it does so in honor and memory of June L. Suter.

Representative Loudon moved the adoption of **HR 68**.

HR 68 was adopted by voice vote.

Representative Romines moved that the rules be suspended for the purpose of withdrawing a bill. Agreed.

Representative Romines moved that **HB 577** be withdrawn. Agreed.

Senate Message

Announcing passage of **SB 222, SB 214, SB 193, SB 168, SB 143, SB 132, SB 228, SB 46, SB 182, SB 135, SB 226, SB 210, HB 110, HB 145, HB 159, HB 171, HB 183, and HB 205.**

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 683, by Representative Crupper: AN ACT relating to county law libraries.

HB 684, by Representative Reynolds: AN ACT relating to barbering.

HB 685, by Representatives Guenther, Burch, Chandler, Hughes, Kidd, Holloway and O'Brien: AN ACT relating to financing public schools in counties having 300,000 or more inhabitants.

HB 686, by Representative Priddy: AN ACT changing the classification of the city of Minor Lane Heights, in Jefferson County.

HB 687, by Representative Kafoglis: AN ACT relating to off-road vehicles.

HB 688, by Representatives Siemens, Holloway and Yates: AN ACT relating to workmen's compensation claims.

HB 689, by Representative Kenton: AN ACT relating to apprenticeship or training discrimination.

HB 690, by Representative Kenton: AN ACT relating to deductions from wages of employees.

HB 691, by Representatives Kenton and Blume: AN ACT relating to unclaimed parimutuel tickets of thoroughbred race meetings.

HB 692, by Representative Kafoglis: AN ACT relating to elections.

HB 693, by Representatives Siemens and Holloway: AN ACT relating to workmen's compensation.

HB 694, by Representative Karem: AN ACT relating to public assistance.

HB 695, by Representative Benson: AN ACT relating to the hospitalization of the mentally ill and the mentally retarded.

HB 696, by Representative Wible: AN ACT relating to early childhood development.

HB 697, by Representatives Priddy, Brewer, Little, Holloway, Romines, Siemens and Swinford: AN ACT relating to motor vehicle registration.

HB 698, by Representative R. Brown: AN ACT relating to Workmen's Compensation.

HB 699, by Representative R. Brown: AN ACT changing the classification of the city of Sandy Hook, in Elliott County.

HB 700, by Representatives Siemens and Holloway: AN ACT relating to workmen's compensation claims.

HB 701, by Representative Freeman: AN ACT relating to telephone companies.

HB 702, by Representatives Hopkins, Beshear, Kenton, Hellard, Stephens and VanHorn: AN ACT relating to highways.

HB 703, by Representatives Allen and Vincent: AN ACT relating to state legislative districts.

HJR 67, by Representatives Benson, Hellard and Denham: A JOINT RESOLUTION directing a study of consumer education.

HR 69, by Representative Karem: A RESOLUTION creating Rule 73 of the Rules of the House of Representatives relating to impeachment proceedings.

HCR 70, by Representatives Nett and Vincent: A CONCURRENT RESOLUTION relating to Mammoth Cave National Park.

HJR 71, by Representative Givhan: A JOINT RESOLUTION directing the Legislative Research Commission to study and audit the Office of State Auditor of Public Accounts.

HR 72, by Representatives Nett and King: A RESOLUTION directing the Educational Facilities Review Commission and the Council on Public Higher Education to make a joint study of the utilization of educational television for higher education.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 558, HB 560, HB 581, HB 583, HB 477, HB 603, HB 650, HR 60, SB 112, SB 44, SB 86, SB 150, SB 185, SB 119.**

Public Utilities and Transportation: **SB 188.**

Banking and Insurance: **HB 387, SB 178.**

Counties and Special Districts: **HB 461.**

Cities: **HB 633, HB 635, HB 636, HCR 63.**

Report of Committees

The Committee on Judiciary reported **HB 180**, with Second Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Second Committee Substitute to **HB 180** is as follows:

HB 180, AN ACT relating to the sale of livestock and grain.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 355 is created to read as follows:

A secured party, possessing a lien against livestock or grain that has been sold without the debt to the secured party being satisfied, shall pursue his remedy against his debtor to the point where a judgment is rendered on the merits, or the suit is dismissed with prejudice before that secured party may bring an action against the purchaser or selling agent of the livestock or grain.

The Committee on Judiciary reported **HB 190**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 190, AN ACT relating to the operation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.520 is amended to read as follows:

- (1) No person under the influence of intoxicating beverages or any drug which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.
- (2) No person shall operate a motor vehicle anywhere in this state while under the influence of intoxicating beverages or any drug which may impair one's driving ability.
- (3) No peace officer or state police officer shall fail to enforce rigidly this section.
- (4) In any criminal prosecution for a violation of subsections (1) and (2) of this section, wherein the defendant is charged with having operated a vehicle while under the influence of intoxicating beverages, the

amount of alcohol in the defendant's blood as determined at the time of making a chemical analysis of his blood, urine, breath or other bodily substance, shall give rise to the following presumptions:

(a) If there was 0.05 per cent (5/100%) or less by weight of alcohol in such blood, it shall be presumed that the defendant was not under the influence of intoxicating beverages;

(b) If there was more than 0.05 per cent (5/100%), but less than 0.10 per cent by weight of alcohol in such blood, such fact shall not constitute a presumption that the defendant either was or was not under the influence of intoxicating beverages, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was 0.10 per cent (1/10%) or more by weight of alcohol in such blood, it shall be presumed that the defendant was under the influence of intoxicating beverages.

(5) The provisions of subsection (4) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages[.], *but in no case shall the charge of violating this section be amended or reduced to a lesser charge.*

(6) No person may be compelled to submit to any test specified in subsection (4) of this section, but his refusal to submit to such test shall result in revocation of his license as provided in KRS 186.565 (3).

(7) Only a physician, registered nurse or qualified medical technician, duly licensed in Kentucky, acting at the request of the arresting officer can withdraw any blood of any person submitting to a chemical test under this section or KRS 186.565.

(8) The person tested shall be permitted to have a duly licensed physician of his own choosing administer a chemical test in addition to the one administered at the direction of the police officer.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.390, except paragraph (c) of subsection (4), KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570, to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than \$10.00 nor more than \$100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than \$10.00 nor more than \$2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than \$1.00 nor more than \$20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221 or subsection (1) of 189.222 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9) per pound when the excess exceeds 5,000 pounds but in no case to exceed \$500.

(b) Any person who violates any provision of subsection (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding \$500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of motor transportation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than \$5.00 nor more than \$50 for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than \$5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than \$25.00 nor more than \$200.

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than \$15.00 nor more than \$100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than \$15.00 nor more than \$100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than \$500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than \$5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than \$10.00 nor more than \$50.00.

(9) (a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, \$200; for the second offense, a fine of \$500 and imprisoned five days in jail; for the third offense, a fine of \$1,000 and imprisoned thirty days in jail, [not less than \$100 nor more than \$500,] and for each subsequent offense he shall be fined \$1,000 [not less than \$100 nor more than \$500] and imprisoned for [not more than] six (6) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than \$25.00 nor more than \$100.

(10) Any person who violates KRS 189.530 shall be fined not less than \$25.00 nor more than \$100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than \$20.00 nor more than \$100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding \$25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than \$15.00 nor more than \$200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than \$100 nor more than \$500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five days nor more than ninety days, or by fine of not less than \$25 nor more than \$500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten days nor more than six months, or by a fine of not less than \$50 nor more than \$1,000, or by both such fine and imprisonment.

The Committee Substitute to **HB 190** is as follows:

HB 190, AN ACT relating to the operation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.560 is amended to read as follows:

(1) The department shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways.

(d) Any felony in the commission of which a motor vehicle is used.

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months.

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident.

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the department shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the department shall forthwith cancel it.

(3) The department upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. *Provided, however, the department may, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520 (2), who has had no previous conviction of said offense, that said person's operator's license not be revoked, restrict said person's operator's license according to such terms and conditions as the Secretary in his discretion may require, provided said person has enrolled in such driver's education program as the department may require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the department shall forthwith revoke said operator's license for a period of six months.*

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.390, except paragraph (c) of subsection (4), KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570, to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than \$10.00 nor more than \$100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than \$10.00 nor more than \$2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than \$1.00 nor more than \$20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221 or subsection (1) of 189.222 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9) per pound when the excess exceeds 5,000 pounds but in no case to exceed \$500.

(b) Any person who violates any provision of subsection (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding \$500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of motor transportation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than \$5.00 nor more than \$50 for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than \$5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than \$25.00 nor more than \$200.

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than \$15.00 nor more than \$100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than \$15.00 nor more than \$100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than \$500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than \$5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than \$10.00 nor more than \$50.00.

(9) (a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than \$100 nor more than \$500[.]; *for the second offense, a fine of not less than \$100 nor more than \$500 and imprisoned for not less than three days nor more than six months; for each subsequent offense he shall be fined not less than \$100 nor more than \$500 and imprisoned for not less than thirty days nor more than twelve months.* [and for each subsequent offense he shall be fined not less than \$100 nor more than \$500 and imprisoned for not more than six (6) months.]

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than \$25.00 nor more than \$100.

(10) Any person who violates KRS 189.530 shall be fined not less than \$25.00 nor more than \$100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than \$20.00 nor more than \$100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding \$25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than \$10.00 nor more than \$100 for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than \$15.00 nor more than \$200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than \$100 nor more than \$500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five days nor more than ninety days, or by fine of not less than \$25 nor more than \$500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten days nor more than six months, or by a fine of not less than \$50 nor more than \$1,000, or by both such fine and imprisonment.

Announcements

The following members filed Floor Amendments to bills:

Representative Robinson, Floor Amendment No. 2 to **HB 444**; Representative Lindsay, Floor Amendment No. 3 to the Committee Substitute to **HB 125**; Representative Holbrook Floor Amendment No. 4 to **HB 96**; Representative Schmaedecke, Floor Amendment No. 1 to **HB 444**; Representative Hellard, Floor Amendment No. 3 to **HB 96**; Representative Burch, Floor Amendment No. 1 to **HB 640**; Representative Schmaedecke, Floor Amendment No. 2 to Committee Substitute to **HB 125**; Representative Overstreet, Floor Amendment No. 1 to Committee Substitute to **HB 379**; and Representative Quickert, Floor Amendment No. 4 to **HB 125**.

The following special meetings were announced:

Wednesday, February 27, 1974: Education Subcommittee of Jefferson County delegation at 11:30, Court Room.

Thursday, February 28, 1974: Business Organizations and Professions, 11:00 A.M., Room 305A.

Appropriations and Revenue at 12 noon, Room 305.

Cities: 1:00 P.M., Room 302.

Adjournment

Representative Swinford moved that the House adjourn until 2:00 P.M., Wednesday, February 27, 1974.

On the roll call the vote was yeas 42-Allen, Bennett, Beshear, Blume, R. Brown, Bruce, Crupper, Davis, Dunn, Foster, Givhan, Graves, Hancock, Head, Hellard, Hurst, Imes, Isler, Kafoglis, King, Kleier, Lindsay, McBee, McBride, Morgan, Paxton, Priddy, Quickert, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, VanHorn, Vincent, J. White, Wible. Nays 2-Denham, Kenton.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 27, 1974

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by the Reverend Ron Bradley, Graefenburg Baptist Church, Waddy, Kentucky.

The roll was called. All present except Representative Hinkle.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representative Hinkle.

Representative Hughes moved that the reading of the Journal of February 26, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 704, by Representatives McBee, Blandford, Clapp, Crupper, Donnermeyer, Isler, Kenton, Mann, McBride, Paxton and Watkins: AN ACT relating to insurance.

HB 705, by Representatives Foster and Pearman: AN ACT relating to revenue and taxation.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 685, HB 677, SB 182, SB 210.**

Business Organizations and Professions: **HB 684**

Cities: **HB 679, HB 681, HB 686, HB 699, SB 46, SB 226.**

Counties and Special Districts: **HB 676, HB 683, SB 143, SB 168, SB 214.**

Elections and Constitutional Amendments: **HB 692.**

Health and Welfare: **HB 694, HB 695.**

Highways and Traffic Safety: **HB 687, HB 702.**

Judiciary: **HB 689, SB 132, SB 193, SB 228, SB 135.**

Labor and Industry: **HB 680, HB 688, HB 690, HB 693, HB 698, HB 700.**

Public Utilities and Transportation: **HB 701.**

State Government: **HB 678, HB 682, HB 691, HB 696, HB 697, HB 703, SB 222.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 39, HB 53, HB 75, HB 110, HB 145, HB 159, HB 171, HB 183, HB 204, HB 205, and HB 216** have been examined and found correctly enrolled. **HB 39, HB 53, HB 75, HB 110, HB 145, HB 159, HB 171, HB 183, HB 204, HB 205, and HB 216** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 39, HB 53, HB 75, HB 110, HB 145, HB 159, HB 171, HB 183, HB 204, HB 205, HB 216 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Posting of Bills and and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Highways and Traffic Safety: **HB 661, HB 702, SB 208, HB 576, HB 687.**

Agriculture and Natural Resources: **HB 655, HB 17, HB 19, HB 67, HB 465, HB 562, SB 1, SB 128.**

Judiciary: **HB 511, HB 592, HB 667, SB 2, SB 75, SB 90, SB 111.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Agriculture and Natural Resources: **HB 352.**

Judiciary: **HB 426.**

Report of Committees

The Committee on Rules reported **HB 439, HB 456** with Committee Substitute attached thereto, **HB 397, HB 95, HB 471, HB 478, HB 593, HB 613** have been posted for passage in Orders of the Day, February

28, 1974.

The Committee on Rules reported **HB 100** with Committee Substitute and Committee Amendment attached thereto, has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **HB 361** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **SB 42**, with Committee Amendment attached thereto, has been recommitted to the Committee on Health and Welfare for the purpose of preparing a substitute.

The Committee on Rules reported **SB 70** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Health and Welfare reported **HR 50** and **HB 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 50, A CONCURRENT RESOLUTION relating to the rights and opportunities of Kentucky Citizens who are visually handicapped and physically disabled.

WHEREAS, the visually handicapped and the physically disabled have the same right as other able-bodied citizens to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places; and

WHEREAS, the visually handicapped and the physically disabled are entitled to full and equal accommodations aboard, the facilities therein, and the privileges of all common carriers, airplanes, motor vehicles, trains, motor buses, boats or any other public conveyances or modes of transportation; and

WHEREAS, the visually handicapped and the physically disabled have been denied full access to places of public accommodation, public housing, public recreation, and employment because of inadequate planning for their needs during the construction of such facilities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That it is the policy of the Commonwealth of Kentucky to encourage and enable the visually handicapped and the physically disabled to participate fully in the social and economic life of the Commonwealth.

Section 2. That it is the policy of the Commonwealth to encourage that the visually handicapped and the physically disabled be employed in State agencies, agencies of the political subdivisions of the State, in the public schools, and in all other forms of employment supported in the whole or in part by public funds, on the same terms and conditions as other able-bodied citizens, unless it is shown that the particular disability prevents the performance of the work involved.

Section 3. That the visually handicapped and physically disabled be entitled to full and equal access to all housing accommodations offered for rent, lease, or compensation in the Commonwealth as are other members of the general public, subject to the conditions and limitations established by law and applicable alike to all residents of the Commonwealth. Nothing in this section shall require that any person who is renting, leasing, or providing for compensation any real property, to modify such property or provide a higher degree of care for a person who is visually handicapped or physically disabled than for any other person who is not visually handicapped or physically disabled.

HB 83, AN ACT relating to the Kentucky Commission on Aging and a Bureau for Aging.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.510 is amended to read as follows:

As used in KRS 211.510 to 211.565 [211.560] unless the context otherwise requires:

- (1) "Commission" means the Kentucky commission on aging; [.]
- (2) "Bureau" means the bureau for aging;
- (3) "Commissioner" means the commissioner of the bureau for aging.

Section 2. KRS 211.520 is amended to read as follows:

(1) There is hereby created a *bureau for aging* and a Kentucky commission on aging *within the department for human resources*. The commission shall consist of seven (7) members. The members shall be appointed by the governor for a term of three (3) years, selected on the basis of their interest in the problems of the aging, at least one (1) of whom shall be a person with no income except pension and social security payments and at least one (1) of whom shall be chosen from a list of three (3) names submitted by the Kentucky Association for Older Persons. Not more than *one (1) [two (2)]* of the appointed members shall be an employee[s] of the commonwealth. A chairman of the commission shall be elected [at the first meeting and] annually [thereafter]. All members shall be eligible for reappointment and shall serve until their successors have been appointed and qualified. Vacancies occurring prior to the expiration of a term shall be filled by the governor for the remainder of the unexpired term.

(2) The commission shall meet at least four (4) times annually on call of the chairman or on the written request of any three (3) members. A majority of the members of the commission shall constitute a quorum for the transaction of business.

(3) *The governor may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office; but shall first deliver to such member a copy of all charges in writing and afford to him an opportunity to be publicly heard in person or by counsel in defense of such charges, upon not less than ten (10) days notice. If a member shall be removed, the governor shall file in the office of the Secretary of State a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings.*

Section 3. KRS 211.525 is amended to read as follows:

(1) The governor shall appoint a *commissioner of the bureau for aging* [director of the commission] who has had experience in administering social welfare programs. *In addition the commissioner shall have completed at least a four-year course leading to a bachelor's degree in gerontology from an accredited university or college and have a minimum of two (2) years of professional experience in working with older people, or he shall have completed at least a four (4) year course leading to a bachelor's degree in social science or biological science from an accredited university or college, with at least six (6) hours of course work in gerontology, and have had at least two (2) years of full-time professional experience in working with older people. Each additional year of professional experience in working with older people may be substituted for one (1) of the required years of appropriate study. Whenever there is a vacancy in the office of commissioner, the commission shall, not more than 30 days after the vacancy occurs, submit a list of three (3) eligible persons to the governor and the governor shall appoint one (1) of the three (3) as commissioner of the bureau for aging. At the inception of this law the then director of the commission shall be considered to be eligible to be one (1) of the three (3) to be nominated by the commission. If the governor does not make the appointment within 30 days after the list of eligible names is submitted to him, the commission at a called meeting at which a quorum is present shall choose one (1) of the three (3) as commissioner.*

(2) *The commissioner is supervisory head of the bureau and [director is the] administrative officer of the commission and shall under the general policy direction of the commission be responsible for [serve the commission by] gathering information; forwarding proposals and evaluations to the governor, the department for human resources, the legislature, and various state agencies; carrying out public education programs; conducting hearings and conferences and performing other duties necessary for the proper operation of the bureau and the commission.*

(3) *The commissioner shall serve at the pleasure of the commission, subject to removal solely by action of the commission.*

(4) *While retaining the right to vote as he may please and express privately his opinion of all political subjects and issues, no employee or officer of the bureau including the commissioner shall take any active part in political management or political campaigns, nor shall he use his office or influence for the purpose of interfering in any election or affecting the results thereof, or for the purpose of coercing the political action of any person or group.*

Section 4. KRS 211.550 is amended to read as follows:

The bureau under the general policy direction of the commission shall [duties of the commission shall be to]:

- (1) Promote and aid in the establishment of local programs and services for the aging;
- (2) Conduct programs to educate the public as to problems of the aging;
- (3) Review existing state programs of the aging and [to] make recommendations to the governor, to the *department for human resources* [appropriate department] and to various agencies of the state, and to the legislature for improvements in and additions to such programs;

- (4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;
- (5) Conduct and encourage other organizations to conduct studies concerning the aging;
- (6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;
- (7) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

The Committee on Health and Welfare reported **HB 84, HB 85, HB 414** with Committee Amendment attached thereto, **HB 443, HB 496, HB 518, HB 588, and HB 608** with the expression of opinion that the same should pas. Read at length for the first time and ordered placed in the Calendar.

HB 84, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS chapter 205 is created to read as follows:

The department may administer and expend any sums appropriated by the General Assembly and all sums paid to the Commonwealth by the Secretary of the Treasury of the United States as authorized by Title IV of the Social Security Act for the purpose of providing assistance to families with dependent children which have an unemployed male parent in the home.

HB 85, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 205 is created to read as follows:

(1) The Department of Economic Security may conduct a program of general assistance whereunder assistance may be rendered for relatively short periods of time to persons who through accident or abrupt change of circumstances are needy and without any means of support from private, charitable or other governmental sources.

(2) The commissioner shall prescribe by regulation the detailed content of the program authorized by subsection (1) of this section. The regulations shall include the following provisions, and may include other provisions where necessary or expedient in the administration of the program:

(a) The total amount of assistance payable to or on behalf of any one (1) applicant;

(b) The period of time to elapse before an applicant who has once exhausted his eligibility is again eligible;

(c) A formula for setting amounts of assistance and conditions of eligibility to get the greatest benefit from funds available in a fiscal period and to assure that available funds last through the fiscal period;

(d) The degree of proof necessary for the applicant to establish eligibility;

(e) Other conditions of eligibility based on basic maintenance needs and taking into account the income available to the person, when added to contributions in money, substance, or services from other sources, including contributions from legally responsible relatives;

(f) The maximum time permitted between the application for assistance and the actual disbursement of monetary assistance or denial of assistance, whichever is the case;

(g) The methods of administration and procedure as are found by the department to be necessary to the efficient operation of the program.

(3) The right to appeal the denial of assistance shall be provided for as provided under KRS 205.231, 205.234 and 205.237. The applicant shall be informed of his right to appeal the denial of assistance at the time of application.

(4) The commissioner shall determine by regulation whether the Commonwealth completely finances the program or whether both the Commonwealth and local political units or subdivisions thereof share in the financing of the program. If a matching fund program is selected, then the ratio of contributions of the

Commonwealth and the respective political unit or subdivision thereof shall be established and shall be uniform and applicable to all political units or subdivisions thereof.

HB 414, AN ACT relating to the licensure and regulation of foster homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.455 is amended to read as follows:

Nothing in KRS 216.405 to 216.485 or the rules and regulations adopted under the provisions of KRS 216.405 to 216.485 shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

- (1) Private offices and clinics of physicians, dentists and other practitioners of the healing arts.
- (2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, provided that such facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four hours.
- (3) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide medical, nursing personnel and health related services.
- (4) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.
- (5) *Programs of the federal government which are used exclusively by federal program recipients and periodically reviewed by the appropriate federal agency for compliance with program standards.*

The Committee Amendment to **HB 414** is as follows:

Amend printed copy of House Bill 414 page 1, line 18, by deleting the period "." after the word "services" and inserting a comma "," in lieu thereof, and by adding the words "including, but not limited to, boarding houses which are operated by persons contracting with the United States Veterans Administration hospitals for boarding services."

and on page 2, lines 5 through 8, by striking those lines in their entirety.

HB 443, AN ACT relating to the practicing of dentistry in professional service corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.240 is amended to read as follows:

[(1)] No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation except the name of a professional service corporation established under KRS chapter 274. Any person practicing or offering to practice dentistry or dental surgery shall practice under his own name or the name of the professional service corporation which includes his name. No such person shall conduct a dental office in his name nor advertise his name in connection with any dental office unless he personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him only, and shall not use his name in connection with that of any other dentist.

[(2)] No person shall be an incorporator, director, officer, or shareholder in more than two (2) professional service corporations rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than two (2) locations.]

HB 496, AN ACT relating to recycling yards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.905 is amended to read as follows:

As used in KRS 177.905 to 177.950, unless the context otherwise requires:

(1) "Road" means any county, state, federal or limited access highway or turnpike, including bridges and bridge approaches.

(2) "Automobile, vehicle or machinery *recycling yard* [junkyard]" means any place where five (5) or more junked, wrecked or non-operative automobiles, vehicles, machines and other similar scrap or salvage materials are deposited, parked, placed or otherwise located.

(3) "Material *recycling yard* [junkyard]" shall mean any establishment or place of business, including garbage dumps and sanitary fills, maintained, operated, or used for storing, keeping, buying or selling of old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or motor vehicle parts, iron, steel, and other old or scrap ferrous or nonferrous material.

(4) "Operator or operators" means a person, firm or corporation operating an automobile, vehicle, machinery or material *recycling yard* [junkyard] or the allowing of such automobile, vehicle, machinery or material *recycling yard* [junkyard] to be placed or deposited, or to remain on premises owned or controlled by such person, firm or corporation.

(5) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic or corporation.

(6) "Department" means the department of highways.

(7) "Commissioner" means the commissioner of the department of highways.

Section 2. KRS 177.910 is amended to read as follows:

No person shall operate or cause to be operated any automobile, vehicle, machinery or material *recycling yard* [junkyard] which is situated closer than 2000 feet to the center line of any road unless a permit for such operation shall have been obtained from the department. The operation of any automobile, vehicle, machinery or material *recycling yard* [junkyard] so situated without a permit is hereby declared to be a public nuisance.

Section 3. KRS 177.912 is amended to read as follows:

Automobile, vehicle or machinery *recycling yards* [junkyards] or material *recycling yards* [junkyards] which comply with the applicable zoning ordinances and regulations of any county or city, and which are located in industrially developed areas, as determined in the discretion of the commissioner of highways, and which areas are located within the corporate limits of any city as such limits existed on March 1, 1966, shall not be deemed to be in violation of KRS 177.905 to 177.950.

Section 4. KRS 177.915 is amended to read as follows:

The permit required by KRS 177.910 shall be issued in accordance with the rules and regulations of the department, promulgated pursuant to the provisions of KRS 177.905 to 177.950, when it is shown to the satisfaction of the commissioner that an automobile, vehicle, machinery or material *recycling yard* [junkyard] located closer than 2000 feet to the center line of any road is, so far as deemed practical by the commissioner, hidden from the view of motorists using such road by an artificial or natural screen, or is by virtue of natural topography so hidden. The screening required in this section may be effected by the construction of a fence, or by planting shrubs, trees, or flowering plants, the foliage of which provides a sufficient screen or by making use of foliage already in existence. The screening required in this section for automobile, vehicle or machinery *recycling yard* [junkyard] must be in use within six (6) months of June 14, 1962. The screening required in this section for material *recycling yards* [junkyards] must be in use by January 1, 1968. If in the opinion of the commissioner any automobile, vehicle, machinery, or material *recycling yard* [junkyard] cannot as a practical matter be screened, it shall be removed from the sight of motorists using such roads; Provided, however, That any material *recycling yard* [junkyard] that cannot as a practical matter be screened, shall not be required to be removed until July 1, 1970.

Section 5. KRS 177.935 is amended to read as follows:

The department is hereby empowered to:

(1) Exercise general supervision of the administration and enforcement of KRS 177.905 to 177.950.

(2) Adopt, after hearing, such rules and regulations pertaining to the operation of automobile, vehicle, machinery or material *recycling yards* [junkyards] as the commissioner may deem necessary to the administration and enforcement of KRS 177.905 to 177.950.

(3) Adopt, without hearing, rules and regulations with respect to the sufficiency, type of material or foliage, height, density and size of screening required by KRS 177.915 to insure the accomplishment of the purpose of KRS 177.905 to 177.950.

(4) Adopt, without hearing, rules and regulations with respect to the procedural aspects of hearings, the filing of reports and orders, the issuance of permits and other matters.

(5) Issue, after hearing, orders abating the operation of an automobile, vehicle, machinery or material *recycling yard* [junkyard] in violation of the provisions of KRS 177.905 to 177.950, or requiring the adoption of remedial measures including the construction or planting of screens or the utilization of natural screening, extension, modification or addition to new or existing screens.

(6) Issue, continue in effect, revoke, modify or deny under such conditions as the department may prescribe permits for the operation of an automobile, vehicle, machinery or material *recycling yard* [junkyard].

(7) Make investigations or inspections which may be deemed necessary by the commissioner to insure compliance with the provisions of KRS 177.905 to 177.950, or with any rules, regulations or orders of the department which may be deemed necessary to enable the department to administer and enforce the provisions of KRS 177.905 to 177.950.

(8) Institute in a court of competent jurisdiction procedures, including injunctive relief, to compel compliance with the provisions of KRS 177.905 to 177.950 and with the orders, rules and regulations issued pursuant thereto.

(9) Enter at any reasonable time through any officer, assistant, agent or employe in or upon any public or private property for the purpose of investigation and inspection of conditions relating to the operation of any automobile, vehicle, machinery or material *recycling yard* [junkyard].

(10) Perform such other and further acts as may be necessary, proper or desirable in order to carry out effectively the duties and responsibilities of the department prescribed in KRS 177.905 to 177.950.

Section 6. KRS 177.940 is amended to read as follows:

(1) Public hearings shall be conducted by the department prior to the adoption of any rules or regulations which pertain to the prevention, abatement or control of automobile, vehicle, machinery or material *recycling yards* [junkyards] or before the issuance of any order prohibiting the performance by any person of any act or acts deemed to be in contravention of any rules, regulations, orders or permits of the department; or before denial, revocation or modification of any permit provided for by KRS 177.905 to 177.950; or before any other final determination is made by the department which directly affects the activities of any person.

(2) The department shall grant a hearing to any person, not previously heard in connection with the issuance of any order or the making of any determination, who may consider himself aggrieved by any such order or determination and who shall file with the department a verified petition alleging that such order or determination is contrary to law or that is injurious to him, stating the grounds and reasons therefor and requesting a hearing thereon. At such hearing the petitioner may appear in person or by attorney, may present his side and may submit evidence, and shall be given full opportunity to be heard.

(3) The hearings provided for in KRS 177.905 to 177.950 may be conducted by the commissioner, deputy commissioner or any highway official designated by the commissioner in the name of the department at a time and place specified by the commissioner.

HB 518, AN ACT relating to hypodermic syringes and needles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 217 is created to read as follows:

(1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.

(2) Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:

- (a) The name of the purchaser; and
- (b) The address of the purchaser; and
- (c) The quantity of syringes or needles purchased; and
- (d) The date of the sale; and
- (e) Planned use of such syringes or needles.

(3) Said record shall be maintained for a period of two years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employe of the Department for Human Resources or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.

(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.

(5) No person engaged in the retail sale of hypodermic syringes or needles shall:

- (a) Fail to keep the records required by this Act; or
- (b) Fraudulently alter any record required to be kept by this Act; or
- (c) Destroy, before the time period required by this Act has elapsed, any record required to be kept by this Act; or

(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this Act; or

(e) Not disclose the names in said book except to those required by the Act.

(6) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall crush the barrel of same or otherwise render the instrument incapable of further use.

Section 2. A new section of KRS Chapter 217 is created to read as follows:

Any person who violates any of the provisions of section 1 of this Act shall be fined not less than \$25 nor more than \$500 or be imprisoned in the county jail for not less than 5 nor more than 30 days, or both.

HB 588, AN ACT relating to tuberculosis sanatorium districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 215.200 is amended to read as follows:

(1) The government of the district sanatorium shall be vested in the board of trustees, which shall have general control of the property and affairs of the sanatorium and shall take such action as is necessary to carry out the purposes of KRS 215.080 to 215.350.

(2) The district board of trustees may:

(a) Borrow money on the credit of the board in anticipation of the revenue to be derived from county and city taxes levied for the tuberculosis sanatorium district for the fiscal half-year in which the money is borrowed, and to pledge the taxes levied for the tuberculosis sanatorium district for the payment of the principal and interest of the loan. The interest paid shall not exceed six per cent (6%) per annum and the principal shall not exceed fifty per cent (50%) of the anticipated revenue for the fiscal half-year in which the money is borrowed.

(b) Establish, operate and maintain, in connection with the sanatorium or as a part thereof, clinics, dispensaries, day camps and summer camps; provide for visiting nurses; promote and carry on campaigns of education; and use other suitable and adequate means and methods necessary and proper for the treatment, relief and prevention of tuberculosis. The board may use the property, equipment and supplies of the sanatorium for these purposes, or it may cooperate with the anti-tuberculosis leagues, medical societies and organizations that are engaged in carrying on such work.

(c) Establish bylaws it deems necessary and expedient to define the duties of officers, assistants or employees, to fix the conditions of admission to the sanatorium and the support and discharge of patients, and to conduct in a proper manner the professional and business affairs of the sanatorium.

(d) Establish and enforce a suitable system of rules and regulations for the internal government, discipline and management of the sanatorium.

(e) Provide by rule the character of examination to which any applicant for admission to the sanatorium shall submit for the purpose of determining whether or not the applicant is afflicted with tuberculosis.

(f) Designate appropriate areas of the facility for providing other health services as defined in KRS 216.405(6), and insofar as permitted by available facilities not fully utilized in the tuberculosis patients; the modifications in health services shall be exempt from the Certificate of Need requirements set forth in KRS 216.445.

HB 608, AN ACT relating to mobile home parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. 219.320 is amended to read as follows:

As used in KRS 219.330 to 219.410:

(1) "Board" means the State Board of Health.

(2) "Department" means the State Department of Health.

(3) "Mobile home" means a transportable dwelling unit suitable for year-round occupancy, which is manufactured on a chassis or undercarriage as an integral part thereof, containing facilities for water, sewage, bath and electrical conveniences.

(4) "Mobile home lot" means a parcel of land in a mobile home park for the placement of a single mobile home.

(5) "Mobile home park" means a parcel of land, under the control of any person, available to the public in which *four* [two] or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure or other facility used as a part of the park.

(6) "Park" means mobile home parks and recreational vehicle parks.

(7) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a park.

(8) "Recreational vehicle" means any of the following:

(a) "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation or vacation.

(b) "Pick-up coach" means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation or vacation.

(c) "Motor-home" means a portable, temporary dwelling to be used for travel, recreation or vacation, constructed as an integral part of a self-propelled vehicle.

(d) "Camping trailer" means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation or vacation use.

(e) "Dependent recreational vehicle" means a recreational vehicle which does not have toilet, lavatory, or bathing facilities.

(f) "Self-contained recreational vehicle" means a recreational vehicle which can operate independent of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which are connected to water storage and sewage holding tanks located within the recreational vehicle.

(9) "Recreational vehicle park" means a parcel of land available to the public in which two or more recreational vehicle spaces are occupied or intended for occupancy by recreational vehicles for transient dwelling purposes and includes any service building, structure, enclosure or other facility used as a part of the park.

(10) "Recreational vehicle space" means a parcel of land in a recreational vehicle park for the placement of a single recreational vehicle.

(11) "Sanitary station" means a facility used for receiving and disposing of wastes from recreational vehicle holding tanks.

(12) "Service building" means a building containing water closets, urinals, lavatories and bathing facilities for use by persons using the park.

(13) "Watering station" means a facility for filling the water storage tanks of recreational vehicles with potable water from an approved water system.

The Committee on Counties and Special Districts reported **HB 253** and **HB 586** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 253, AN ACT relating to county buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 67 is created to read as follows:

County buildings, whether constructed, purchased, or leased by the county, for the purpose of providing multiple services of county government or its agencies thereof in a location within the county other than the county seat to afford the general public more convenient access to governmental services shall be designated and known as Regional Governmental Centers. Except as provided in KRS 67.035 and 186.014, this section shall not be construed as authorization for elected county officials to maintain permanent, secondary offices in said Regional Governmental Centers.

HB 586, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.040 is amended to read as follows:

(1) The fiscal court of each county shall consist of the county judge, or in his absence the county judge pro tem, and the justices of the peace of the county; or of the county judge, or in his absence the county judge pro tem, and three (3) county commissioners elected under KRS 67.050 and 67.060.

(2) The county judge, or in his absence the county judge pro tem, shall preside, if present. If neither the county judge nor the county judge pro tem is present or cannot preside, a majority of the justices of the peace or commissioners shall elect one (1) of their number to preside during the absence or inability of the county judge or county judge pro tem to preside. The county judge, or the county judge pro tem or justice presiding in his place, shall preserve order, and may fine and imprison for contempt of court in the same manner as the presiding judge of the county court.

(3) Not less than a majority of the members of the fiscal court shall constitute a quorum for the transaction of business. No proposition shall be adopted except with the concurrence of at least a majority of the members present.

(4) When there is a tie vote in the fiscal court in the selection *or dismissal* of any officer or employe to be selected by the fiscal court, and a deadlock results and continues for fifteen (15) days or longer, the county judge shall cause to be entered upon the minutes of the fiscal court an order reciting the facts as to the deadlock, and the question upon which it has occurred and exists, and thereupon, the county judge shall make such appointment.

The Committee on State Government reported **HB 170** with Committee Substitute attached thereto, **HB 176** with Committee Substitute attached thereto, **HB 220**, **HB 272**, **HB 491** with Committee Amendment attached thereto, **HB 493** with Committee Amendment attached thereto, **HB 552**, **HB 581** with Committee Amendments attached thereto, **HB 603**, **HB 650**, **SB 112**, and **SB 172** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 170, AN ACT relating to motor fuels taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.320 is amended to read as follows:

Two-ninths [(2/9)] of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660(1) and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the department of *transportation* [highways] of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.380., except that for the fiscal year July 1, 1972, through June 30, 1973, the amount shall be equal to the amount set aside for the immediately preceding fiscal year, plus an amount equal to the percentage increase in gallonage reported for the fiscal year ended June 30, 1973, over that reported for the fiscal year ended June 30, 1972.]

Section 2. KRS 177.365 is amended to read as follows:

[On and after July 1, 1973,] One-eighteenth [(1/18)] of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660 (1) and 234.320 shall be set aside by the Department of *transportation* [Highways] for the construction, reconstruction and maintenance of urban roads and streets which provide necessary connecting links for state, county and federal highways, and for no other purpose.

Section 3. KRS 138.660 is amended to read as follows:

(1) Every motor carrier shall pay a tax of nine cents [(9)] per gallon on the amount of gasoline and nine cents [(9)] per gallon on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1), if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax of two cents [(2)] per gallon on the amount of gasoline and special fuels used in operations on public highways of this state.

(3) The tax levied under subsections (1) and (2) of this section shall be computed and paid as provided in KRS 138.690.

(4) *Two-ninths of all amounts received by reason of the tax imposed by subsection (1) shall be set aside as provided by KRS 177.320, and one-eighteenth of all amounts received by reason of the tax imposed by subsection (1) shall be set aside as provided by KRS 177.365.*

The Committee Substitute for **HB 170** is as follows:

HB 170, AN ACT relating to motor fuels taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.320 is amended to read as follows:

(1) Two-ninths [(2/9)] of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside for the construction, reconstruction and maintenance of secondary and rural roads and for no other purpose, and shall be expended for said purposes by the department of *transportation* [highways] of the Commonwealth of Kentucky according to the terms and conditions prescribed in KRS 177.330 to 177.380[, except that for the fiscal year July 1, 1972, through June 30, 1973, the amount shall be equal to the amount set aside for the immediately preceding fiscal year, plus an amount equal to the percentage increase in gallonage reported for the fiscal year ended June 30, 1973, over that reported for the fiscal year ended June 30, 1972].

(2) *On or after July 1, 1976, nine-tenths of one-ninth of all funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660 and 234.320 shall be set aside for the construction, reconstruction and maintenance of county roads and bridges provided by KRS 179.410 through 179.430.*

Section 2. KRS 179.410 is amended to read as follows:

(1) The department of *transportation* [highways] shall allocate the sum appropriated by the general assembly *or, after July 1, 1976 the funds arising under the provisions of Section 1 (2) of this Act,* for the construction, reconstruction, improvement, and maintenance of county roads and bridges in accordance with the provisions of KRS 177.360 [(1)].

(2) The department of *transportation* [highways], at the close of each fiscal year or as soon thereafter as practicable, shall furnish to the fiscal courts of the several counties a statement showing the total amount of all disbursements, the unliquidated and unencumbered balances of the funds allocated to the respective counties for that fiscal year.

HB 176, AN ACT relating to boats and boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion; [, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto;]

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lease under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Department" means the department of *transportation* [public safety];

(8) "*Bureau*" means the bureau of vehicle regulation within the department of *transportation*; ["Division" means the division of boating within the department of public safety;]

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means circuit court clerk.

Section 2. KRS 235.020 is amended to read as follows:

(1) *The head of the division of water enforcement shall be appointed by the commissioner of the bureau of vehicle regulation with the concurrence of the secretary of transportation.*

[(1) There shall be established in the department of public safety a division of boating.

(2) The head of the division of boating shall be appointed by the commissioner of public safety in accordance with the provisions of KRS 12.050.]

(2)[(3)] The division of *water enforcement* [boating] shall be authorized to employ necessary personnel to carry out the functions assigned to the division in this chapter.

Section 3. KRS 235.030 is amended to read as follows:

This chapter shall be known as the state boating act and shall be administered by the *divisions of water enforcement and driver licensing within the bureau of vehicle regulation*. [division of boating.]

Section 4. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the circuit court clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the circuit court clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in *triplicate* [quadruplicate] with one [(1)] copy to be retained by the circuit court clerk, one [(1)] copy to be forwarded to the division of *driver licensing*, and the original to constitute a temporary registration certificate valid for not more than ninety days and to be destroyed upon receipt of the permanent certified certificate. [and one (1) copy to be forwarded by the clerk to the department of revenue.] The [original] application shall be accompanied by:

- (a) A bill of sale, if the application is for registration of a new motorboat; or
 - (b) The owner's registration receipt if the motorboat was last registered in this state; or
 - (c) A bill of sale and the previous registration receipt if last registered in another state; and
 - (d) The annual registration fee.
- (2) Motorboats shall be registered annually.

Section 5. KRS 235.060 is amended to read as follows:

All original, renewal and duplicate licenses for the operation of motorboats shall be issued by the division of *driver licensing*. [boating.]

Section 6. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the circuit court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the division of *driver licensing*. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, [race,] present resident address, the make of the boat, *hull identification* [serial] number (*HIN*), if any, length, beam, motive power, maximum capacity, type of hull material, and intended use of boat. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations *promulgated pursuant to KRS Chapter 224*. [of the Kentucky water pollution control commission.] It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a temporary license, certificate of number or renewal thereof to be valid for not more than ninety [(90)] days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent certificate from the division of *driver licensing*. [boating.]

(4) No license for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated *pursuant to KRS Chapter 224*. [by the Kentucky water pollution control commission.]

Section 7. KRS 235.080 is amended to read as follows:

(1) With the exception of motorboats for hire by a boat livery, the annual registration fee for motorboats shall be based upon length of the motorboat as follows: 1 foot to 16 feet--\$3.00; 16 feet to 26 feet--\$5.00; 26 feet to 40 feet--\$8.00; 40 feet and larger--\$10.00. The annual registration fee for all inboard motorboats shall be \$10.00. Every application shall be accompanied by the registration fee above set out.

(2) The annual registration fee for boats for hire from a boat livery shall be as follows: 1 foot to 16 feet--\$1.00; 16 feet to 26 feet--\$2.50; 26 feet to 40 feet--\$4.00; 40 feet and larger and inboard motorboats--\$5.00. Owners of a boat livery shall apply for licenses or certificates in the manner provided in this chapter, but the *bureau* [division] may promulgate special rules and regulations relating to their certification and registration.

Section 8. KRS 235.090 is amended to read as follows:

On Monday of each week [No later than the tenth day of each month] the circuit court clerk shall make a written report to the division of *driver licensing* which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar month preceding the report. The [original] applications for registration and the fees collected by the clerk shall be forwarded with [a copy of] the said report to the *division of driver licensing*. [department of revenue.] The clerk shall collect from each owner a fee in the sum of fifty cents [(50)] for each registration in addition to the registration fee.

Section 9. KRS 235.110 is amended to read as follows:

(1) The owners shall cause to be painted on or attached to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the division in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

(2) All numbers placed upon the bow of a motorboat subject to this numbering system shall be *painted on, or attached to, each side of the bow (i.e. the forward half) of the vessel; read from left to right; and in such position as to provide maximum visibility; in block characters of good proportion not less than three inches in height; of a color which will contrast with the color of the background (i.e. dark numbers on a light background) and so maintained as to be clearly visible and legible.* [of such size, color and type as the division may by regulation prescribe, but not less than three (3) inches in height. All such regulations shall be in accordance with any federal uniform regulations concerning such matters as may be currently in effect.]

(3) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

Section 10. KRS 235.130 is amended to read as follows:

[(1) Whenever a motorboat that has been previously registered in Kentucky changes ownership, the registration number previously assigned shall remain a part of it.]

(1) [(2)] No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) [(3)] It shall be the duty of the purchaser to record the indorsed certificate of number with the circuit court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated and to pay a transfer fee of one dollar [(\$1.00)]. The clerk thereupon shall forward the indorsed certificate of number [to the division] and the transfer fee to the *division of driver licensing*. [department of revenue.] Upon receipt of the indorsed certificate the division shall thereupon issue a new certificate of number bearing the same date and information required on the original certificate of number except the change in owner's name and address. The clerk shall charge the purchaser a fee of fifty cents [(50)].

Section 11. KRS 235.150 is amended to read as follows:

The division of *driver licensing* shall insofar as is practicable assign to each motorboat the number previously assigned thereto upon each subsequent registration.

Section 12. KRS 235.160 is amended to read as follows:

All *registration* records of the *division of driver licensing* [department] made or kept pursuant to the issuance of a certificate of number shall be public records.

Section 13. KRS 235.170 is amended to read as follows:

(1) Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of one [(1)] year unless sooner terminated or discontinued in accordance with the provisions of this chapter.

(2) The [division shall fix a day and month of the year on which] certificates of number *shall* [due to] *expire on April 30 of each year* [during the calendar year shall elapse] and no longer shall be in force unless renewed pursuant to this chapter.

Section 14. KRS 235.190 is amended to read as follows:

Any holder of a certificate of number shall notify the division of *driver licensing* within fifteen [(15)] days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the division with his new address. The division may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

Section 15. KRS 235.200 is amended to read as follows:

(1) Every motorboat shall have aboard:

(a) One [(1)] life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board.

(b) *Non-mechanically propelled boats under 16 feet shall have aboard, and readily at hand, one white light, either lantern or flashlight, which between the hours of sunset and sunrise can be used by the operator in sufficient time to warn other craft of his position and prevent collision. Boats sixteen feet and over will follow coast guard regulations.*

(c) *All mechanically propelled vessels under 26 feet shall have one combination light in the forepart of the vessel showing red to port and green to starboard from right ahead to two points abaft the beam, visible at least one mile; one bright light aft showing around the horizon, visible at least two miles.*

(d) *Mechanically propelled vessels 26 feet and over shall have on the port side, properly screened, a red light which shall show from right ahead to two points abaft the beam, visible at least one mile, and on the starboard side, properly screened, a green light which shall show from right ahead to two points abaft the beam, visible at least one mile, on the stern, one bright, white light showing all around the horizon, visible at least two miles; on the bow, one bright, white light in the forepart of the vessel showing from right ahead to two points abaft the beam on both sides, visible at least two miles.*

(e) *Combination sail and power boats shall display lights as set forth by the coast guard and outlined in Chapman's book on miles and regulations.*

(f) *All vessels when anchored in a normal navigation channel or passage way shall carry and display a steady white light, visible around the horizon, as a warning signal to avert collision.*

[(b) When in operation during hours of darkness, lights sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.]

(g) [(c)] *If carrying or using any inflammable or toxic fluid in any inclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.*

(h) [(d)] *Such additional equipment [designed to promote the safety of navigation and of persons] as the division of water enforcement may prescribe [find to be appropriate and for which it has provided] in its rules and regulations.*

(i) [(e)] *If such motorboat is equipped with toilet facilities, a storage container or a treatment or disposal system of size and construction sufficient to protect and preserve the waters of this state from pollution. The storage container or treatment or disposal system shall conform to the [such] construction, performance and utilization criteria as may be established by regulations promulgated pursuant to KRS Chapter 224. [of the Kentucky water pollution control commission.]*

(j) *The certificate number.*

(2) *Except during an authorized race or regatta, it shall be illegal to operate any motor boat without an effective exhaust muffler, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.*

(3) [(2)] *No person shall operate or give permission for the operation of a motorboat which is not equipped as required by this section or modification thereof, or which is not safe for operation as a motorboat.*

Section 16. KRS 235.210 is amended to read as follows:

(1) A motorboat shall not be required to be numbered under this chapter if it is:

(a) [(1)] *Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; Provided, That such boat shall not have been within this state for a period in excess of sixty [ninety (90)] consecutive days;*

(b) [(2)] *A motorboat from a country other than the United States temporarily using the waters of this state;*

(c) [(3)] *A motorboat whose owner is the United States, a state or a subdivision thereof[;], except when such boat is leased to the public for compensation it must be registered according to KRS 235.080(2);*

(d) [(4)] *A ship's lifeboat used or intended to be used as such;*

(e) [(5)] *A motorboat belonging to a class of boats which has been exempted from numbering by the division of driver licensing after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the division has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.*

(2) *Boats exempt from registration may be required by the division of water enforcement to apply for an official identification number to be displayed in accordance with KRS 235.110.*

Section 17. KRS 235.220 is amended to read as follows:

Every manufacturer of, or dealer in motorboats in this state shall register with the division of driver licensing at Frankfort, Kentucky, and pay an annual registration fee of twenty-five dollars [(\$25.00)] to the division. Upon receipt of this fee the division shall issue to the manufacturer or dealer a certificate of number and a plate bearing the number assigned, which plate shall be so designed that it can be transferred from boat to boat. Every manufacturer or dealer registered under this section shall be furnished additional dealer certificates of number and plates upon the payment of two dollars [(\$2.00)] for each additional certificate of

number desired. A motorboat bearing dealer's plates and carrying a dealer's certificate of number may be used only by a member of the firm registered or by a bona fide salesman or employe of the firm for any purpose reasonably connected with the sale or demonstration for sale and delivery of the dealer's motorboat or by any manufacturer or dealer licensed as provided above in transporting any motorboat over the waters of this state to his place of retail business for the manufacturer or wholesale dealer in motorboats and for no other purpose.

Section 18. KRS 235.250 is amended to read as follows:

(1) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars [(\$100)] shall file with the division of *water enforcement* a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require.

Section 19. KRS 235.270 is amended to read as follows:

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the division of *water enforcement* pursuant to KRS 235.250 shall be transmitted to said official or agency of the United States.

Section 20. KRS 235.280 is amended to read as follows:

The division of *water enforcement*, with the approval of the commissioner of the *bureau of vehicle regulation*, [public safety,] shall promulgate rules and regulations to govern[:] *the fair, reasonable, equitable and safe use of all waters of this state.*

[(a) The fair, reasonable, equitable and safe use of all waters of this state by the fishing public and the boating public of whatever nature or activity involved;

(b) The operation of boats on any waters of this state towing a person or persons on water skis, a surfboard or similar device;

(c) The safe use and operation of all boats, floating docks, skiing ramps, slides or similar devices on any waters of this state.]

Section 21. KRS 235.290 is amended to read as follows:

(1) The division of *water enforcement* may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof shall, at least fifteen [(15)] days prior thereto, file an application with the division for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the division in writing.

(2) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

Section 22. KRS 235.310 is amended to read as follows:

(1) The commissioner of *vehicle regulation* shall designate officers and employes of the *bureau* [division] to enforce the provisions of this chapter and such officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the commonwealth. In enforcing the provisions of this chapter such officers and all other peace officers of the commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the commonwealth.

[(2) All peace officers and other employes in the division shall be covered by the state merit system established by KRS chapter 18 and shall not be covered by the merit system for other peace officers in the department of public safety as provided in KRS chapter 16.]

Section 23. KRS 235.320 is amended to read as follows:

The division of *water enforcement*, with the approval of the *commissioner of the bureau of vehicle regulation* [head of the department], may promulgate any rules and regulations not inconsistent herewith to carry out the purposes of this chapter.

Section 24. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of this chapter shall be paid into the state treasury in the manner prescribed by law, and credited to the general expenditure fund.

(2) Appropriations for the operation of the division of *water enforcement* [boating] shall be made from the general expenditure fund.

Section 25. KRS 433.757 is amended to read as follows:

(1) Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any trash, litter, debris or refuse of any kind whatsoever, including but not limited to, garbage, swill, cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, paper, and boxes, into or upon any lake, river, stream, creek or other body of water, or on the ice over such waters, or on the banks adjacent thereto, shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than three hundred dollars.

(2) When any trash, litter, debris or refuse as described above is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated this section.

(3) It shall be the duty of law enforcement officers of the division of *water enforcement* [boating] as provided in KRS 235.310 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of this section.

(4) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of this section.

The Committee Substitute for **HB 176** is as follows:

HB 176, AN ACT relating to boats and boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion; [, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto;]

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lease under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Department" means the department of *transportation* [public safety];

(8) "*Bureau*" means the *bureau of vehicle regulation within the department of transportation*; ["Division" means the division of boating within the department of public safety;]

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means circuit court clerk.

Section 2. KRS 235.020 is amended to read as follows:

(1) *The head of the division of water enforcement shall be appointed by the commissioner of the bureau of vehicle regulation with the concurrence of the secretary of transportation.*

[(1) There shall be established in the department of public safety a division of boating.

(2) The head of the division of boating shall be appointed by the commissioner of public safety in accordance with the provisions of KRS 12.050.]

(2)[(3)] The division of *water enforcement* [boating] shall be authorized to employ necessary personnel to carry out the functions assigned to the division in this chapter.

Section 3. KRS 235.030 is amended to read as follows:

This chapter shall be known as the state boating act and shall be administered by the *divisions of water enforcement and driver licensing within the bureau of vehicle regulation*. [division of boating.]

Section 4. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the circuit court clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the circuit court clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in *triplicate* [quadruplicate] with one [(1)] copy to be retained by the circuit court clerk, one [(1)] copy to be forwarded to the division of *driver licensing*, and the original to constitute a temporary registration certificate valid for not more than ninety days and to be destroyed upon receipt of the permanent certified certificate. [and one (1) copy to be forwarded by the clerk to the department of revenue.] The [original] application shall be accompanied by:

- (a) A bill of sale, if the application is for registration of a new motorboat; or
 - (b) The owner's registration receipt if the motorboat was last registered in this state; or
 - (c) A bill of sale and the previous registration receipt if last registered in another state; and
 - (d) The annual registration fee.
- (2) Motorboats shall be registered annually.

Section 5. KRS 235.060 is amended to read as follows:

All original, renewal and duplicate licenses for the operation of motorboats shall be issued by the division of *driver licensing*. [boating.]

Section 6. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the circuit court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the division of *driver licensing*. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, [race,] present resident address, the make of the boat, *hull identification* [serial] number (*HIN*), if any, length, beam, motive power, maximum capacity, type of hull material, and intended use of boat. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations *promulgated pursuant to KRS Chapter 224*. [of the Kentucky water pollution control commission.] It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a temporary license, certificate of number or renewal thereof to be valid for not more than ninety [(90)] days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent certificate from the division of *driver licensing*. [boating.]

(4) No license for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations *promulgated pursuant to KRS Chapter 224*. [by the Kentucky water pollution control commission.]

Section 7. KRS 235.080 is amended to read as follows:

(1) With the exception of motorboats for hire by a boat livery, the annual registration fee for motorboats shall be based upon length of the motorboat as follows: 1 foot to 16 feet--\$3.00; 16 feet to 26 feet--\$5.00; 26 feet to 40 feet--\$8.00; 40 feet and larger--\$10.00. The annual registration fee for all inboard motorboats shall be \$10.00. Every application shall be accompanied by the registration fee above set out.

(2) The annual registration fee for boats for hire from a boat livery shall be as follows: 1 foot to 16 feet--\$1.00; 16 feet to 26 feet--\$2.50; 26 feet to 40 feet--\$4.00; 40 feet and larger and inboard motorboats--\$5.00. Owners of a boat livery shall apply for licenses or certificates in the manner provided in this chapter, but the *bureau* [division] may promulgate special rules and regulations relating to their certification and registration.

Section 8. KRS 235.090 is amended to read as follows:

On Monday of each week [No later than the tenth day of each month] the circuit court clerk shall make a written report to the division of *driver licensing* which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar month preceding the report. The [original] applications for registration and the fees collected by the clerk shall be forwarded with [a copy of] the said report to the *division of driver licensing*. [department of revenue.] The clerk shall collect from each owner a fee in the sum of fifty cents [(50)] for each registration in addition to the registration fee.

Section 9. KRS 235.110 is amended to read as follows:

(1) The owners shall cause to be painted on or attached to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the division in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation.

(2) All numbers placed upon the bow of a motorboat subject to this numbering system shall be:

(a) *Painted on, or attached to, each side of the bow (i.e. the forward half) of the vessel;*

(b) *Read from left to right;*

(c) *And in such position as to provide maximum visibility;*

(d) *In block letters of good proportion not less than three inches in height;*

(e) *Have spaces that are equal to the width of a letter other than "I" or a number other than "1" between the letter and the number groupings (Example: KY 1234 A);*

(f) *Of a color which will contrast with the color of the background (i.e. dark numbers on a light background) and so maintained as to be clearly visible and legible.* [of such size, color and type as the division may by regulation prescribe, but not less than three (3) inches in height. All such regulations shall be in accordance with any federal uniform regulations concerning such matters as may be currently in effect.]

(3) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

Section 10. KRS 235.130 is amended to read as follows:

[(1) Whenever a motorboat that has been previously registered in Kentucky changes ownership, the registration number previously assigned shall remain a part of it.]

(1) [(2)] No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) [(3)] It shall be the duty of the purchaser to record the indorsed certificate of number with the circuit court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated and to pay a transfer fee of one dollar [(\$1.00)]. The clerk thereupon shall forward the indorsed certificate of number [to the division] and the transfer fee to the *division of driver licensing*. [department of revenue.] Upon receipt of the indorsed certificate the division shall thereupon issue a new certificate of number bearing the same date and information required on the original certificate of number except the change in owner's name and address. The clerk shall charge the purchaser a fee of fifty cents [(50)].

Section 11. KRS 235.150 is amended to read as follows:

The division of *driver licensing* shall insofar as is practicable assign to each motorboat the number previously assigned thereto upon each subsequent registration.

Section 12. KRS 235.160 is amended to read as follows:

All *registration* records of the *division of driver licensing* [department] made or kept pursuant to the issuance of a certificate of number shall be public records.

Section 13. KRS 235.170 is amended to read as follows:

(1) Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of one [(1)] year unless sooner terminated or discontinued in accordance with the provisions of this chapter.

(2) The [division shall fix a day and month of the year on which] certificates of number *shall* [due to] expire *on April 30 of each year* [during the calendar year shall elapse] and no longer shall be in force unless renewed pursuant to this chapter.

Section 14. KRS 235.190 is amended to read as follows:

Any holder of a certificate of number shall notify the division of *driver licensing* within fifteen [(15)] days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the division with his new address. The division may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

Section 15. KRS 235.200 is amended to read as follows:

(1) Every vessel [motorboat] shall have aboard:

(a) *Personal floatation devices of the type and quantity as prescribed by the U.S. Coast Guard; [One [(1)] life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board.]*

(b) *When in operation during hours of darkness, or during times of poor visibility, such lights as prescribed by regulations of the Division of Water Enforcement. [lights sufficient to make the motorboat's presence and location known to any and all other vessels within a reasonable distance.]*

(c) *If carrying or using any inflammable or toxic fluid in any inclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.*

(d) *Such additional equipment designed to promote the safety of navigation and of persons as the division of water enforcement may find to be appropriate and for which it has provided in its rules and regulations.*

(e) *If such motorboat is equipped with toilet facilities, a storage container or a treatment or disposal system of size and construction sufficient to protect and preserve the waters of this state from pollution. The storage container or treatment or disposal system shall conform to the [such] construction, performance and utilization criteria as may be established by regulations promulgated pursuant to KRS Chapter 224. [of the Kentucky water pollution control commission.]*

(f) *The certificate number.*

(2) *Except during or practicing for an authorized race or regatta, it shall be illegal to operate any motor boat without an effective exhaust muffling system, or with an exhaust muffler cutout open, or in any other manner which renders the exhaust muffler ineffective in muffling the sound of engine exhaust.*

(3) [(2)] No person shall operate or give permission for the operation of a motorboat which is not equipped as required by this section or modification thereof, or which is not safe for operation as a motorboat.

Section 16. KRS 235.210 is amended to read as follows:

(1) A motorboat shall not be required to be numbered under this chapter if it is:

(a) [(1)] Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; Provided, That such boat shall not have been within this state for a period in excess of sixty [ninety (90)] consecutive days;

(b) [(2)] A motorboat from a country other than the United States temporarily using the waters of this state;

(c) [(3)] A motorboat whose owner is the United States, a state or a subdivision thereof[;], *except when such boat is leased to the public for compensation it must be registered according to KRS 235.080(2);*

(d) [(4)] A ship's lifeboat used or intended to be used as such;

(e) [(5)] A motorboat belonging to a class of boats which has been exempted from numbering by the division of driver licensing after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the division has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

(2) *Boats exempt from registration may be required by the division of water enforcement to apply for an official identification number to be displayed in accordance with KRS 235.110.*

Section 17. KRS 235.220 is amended to read as follows:

Every manufacturer of, or dealer in motorboats in this state shall register with the division of driver licensing at Frankfort, Kentucky, and pay an annual registration fee of twenty-five dollars [(\$25.00)] to the division. Upon receipt of this fee the division shall issue to the manufacturer or dealer a certificate of number and a plate bearing the number assigned, which plate shall be so designed that it can be transferred from boat to boat. Every manufacturer or dealer registered under this section shall be furnished additional dealer certificates of number and plates upon the payment of two dollars [(\$2.00)] for each additional certificate of number desired. A motorboat bearing dealer's plates and carrying a dealer's certificate of number may be used only by a member of the firm registered or by a bona fide salesman or employe of the firm for any purpose reasonably connected with the sale or demonstration for sale and delivery of the dealer's motorboat or by any manufacturer or dealer licensed as provided above in transporting any motorboat over the waters of this state to his place of retail business for the manufacturer or wholesale dealer in motorboats and for no other purpose.

Section 18. KRS 235.250 is amended to read as follows:

(1) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other

casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars [(\$100)] shall file with the division of *water enforcement* a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require.

Section 19. KRS 235.270 is amended to read as follows:

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the division of *water enforcement* pursuant to KRS 235.250 shall be transmitted to said official or agency of the United States.

Section 20. KRS 235.280 is amended to read as follows:

The division of *water enforcement*, with the approval of the commissioner of the *bureau of vehicle regulation*, [public safety,] shall promulgate rules and regulations to govern[:] *the fair, reasonable, equitable and safe use of all waters of this state.*

[(a) The fair, reasonable, equitable and safe use of all waters of this state by the fishing public and the boating public of whatever nature or activity involved;

(b) The operation of boats on any waters of this state towing a person or persons on water skis, a surfboard or similar device;

(c) The safe use and operation of all boats, floating docks, skiing ramps, slides or similar devices on any waters of this state.]

Section 21. KRS 235.290 is amended to read as follows:

(1) The division of *water enforcement* may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. It shall adopt and may, from time to time, amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof shall, at least fifteen [(15)] days prior thereto, file an application with the division for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and it shall not be conducted without authorization of the division in writing.

(2) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit pursuant to this section if a permit therefor has been obtained from an authorized agency of the United States.

Section 22. KRS 235.310 is amended to read as follows:

(1) The commissioner of *vehicle regulation* shall designate officers and employes of the *bureau* [division] to enforce the provisions of this chapter and such officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the commonwealth. In enforcing the provisions of this chapter such officers and all other peace officers of the commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the commonwealth.

[(2) All peace officers and other employes in the division shall be covered by the state merit system established by KRS chapter 18 and shall not be covered by the merit system for other peace officers in the department of public safety as provided in KRS chapter 16.]

Section 23. KRS 235.320 is amended to read as follows:

The division of *water enforcement*, with the approval of the *commissioner of the bureau of vehicle regulation* [head of the department], may promulgate any rules and regulations not inconsistent herewith to carry out the purposes of this chapter.

Section 24. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of this chapter shall be paid into the state treasury in the manner prescribed by law, and credited to the general expenditure fund.

(2) Appropriations for the operation of the division of *water enforcement* [boating] shall be made from the general expenditure fund.

Section 25. KRS 433.757 is amended to read as follows:

(1) Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any trash, litter, debris or refuse of any kind whatsoever, including but not limited to, garbage, swill,

cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, paper, and boxes, into or upon any lake, river, stream, creek or other body of water, or on the ice over such waters, or on the banks adjacent thereto, shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than three hundred dollars.

(2) When any trash, litter, debris or refuse as described above is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed *prima facie* to have violated this section.

(3) It shall be the duty of law enforcement officers of the division of *water enforcement* [boating] as provided in KRS 235.310 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of this section.

(4) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of this section.

Section 26. A new section of KRS Chapter 235 is created to read as follows:

No vessel equipped with a siren or a flashing, rotating or oscillating blue light may be operated upon waterways of this state except patrol boats operated by the Division of Water Enforcement.

HB 220, AN ACT relating to state holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), *the 15th day of January (Martin Luther King Day)*, the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the fourth Monday in October (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the *15th day of January (Martin Luther King Day)*, the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the fourth Monday in October (Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other

negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

HB 272, AN ACT relating to the honey bee.

WHEREAS, modern agriculture has come to depend greatly on the honey bee to fulfill its pollination needs;

WHEREAS, honey bees are the most efficient and only dependable pollinators;

WHEREAS, approximately 80 percent of the pollination of our fruit, seed and vegetable crops is accomplished by honey bees;

WHEREAS, at least 50 agricultural crops are either totally dependent upon honey bees for their production, or yield more abundantly when bees are plentiful during the blooming periods;

WHEREAS, specialists agree that for each dollar which beekeepers receive from the sale of honey and beeswax, fifteen to twenty dollars worth of pollination services are contributed by honey bees to our agricultural economy;

WHEREAS, honey and beeswax production is a one million dollar industry in Kentucky;

WHEREAS, honey has filled a useful place as a multi-purpose food in man's diet for over 5,000 years;

WHEREAS, honey provided the early Kentuckians with the invaluable sweets needed for their tables;

WHEREAS, honey today has all the qualities that have made it a favorite sweet for centuries;

WHEREAS, both honey and beeswax are used in a wide variety of ways in today's commercial processes;

WHEREAS, man has not changed the honey bee and the honey bee still remains undomesticated;

WHEREAS, the keeping of honey bees provides many Kentuckians with a profitable sideline as well as a wholesome and intellectual hobby;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 2 is created to read as follows:
The honey bee is named and designated as Kentucky's official state insect.

HB 491, AN ACT relating to State Personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.110 is amended to read as follows:

As used in KRS 18.110 to 18.340, unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employee or group of officers or employees authorized by law to make appointments;

(2) "Board" means the personnel board created by KRS 18.160;

(3) "Certification" means the referral of the name of *one or more* [a] qualified prospective employees by the commissioner of personnel on request of an appointing officer for *consideration in filling* [selection to] a position in the classified service;

(4) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(5) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18.140; a "classified position" is a position in the classified service;

(6) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(7) "Department" means the department of personnel provided for in KRS 18.160 unless the context indicates otherwise;

(8) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18.110 to 18.340 and who has qualified to be placed on a register;

(9) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18.110 to 18.340 to *any* [a temporary] position by reason of a governmental emergency recognized by the governor, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(10) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(11) "Position" means an office or employment in an agency (whether part-time, full-time, temporary or permanent, occupied or vacant) involving duties requiring the services of one (1) person;

(12) "Probation" means the period of service following appointment to any position under KRS 18.110 to 18.340 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18.210. An employee serving the probationary period is known as a "probationary employee";

(13) "Promotion" means a change of rank of an employee from a position of one (1) class to a position of another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(14) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18.110 to 18.340 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18.210;

(15) "Re-employment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of *position or of* organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Re-employment lists are used as provided in KRS 18.210;

(16) "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, *maintained for use in making* [which shall be used for selection for promotion or] original appointments *or promotions* to [a] positions in the classified service;

(17) "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employee in the classified service;

(18) A "temporary position" is one created for a defined period of time not to exceed six (6) months in any event and not renewable; a "temporary employee" is one (1) appointed to such temporary position, either from an existing pertinent eligible list or without reference to an eligible list. A "seasonal position," although temporary in duration in the foregoing sense coincides in duration with a particular season or seasons of the year and may recur regularly from year to year; a "seasonal employee" is one (1) appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(19) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service.

(20) A "War Veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955.

Section 2. KRS 18.130 is amended to read as follows:

[(1)] The classified service to which KRS 18.110 to 18.340 shall apply shall include all employees of the department of fish and wildlife resources, and all other positions in the state civil service now existing or hereafter established, except as provided in KRS 18.140.

[(2) (a) The department of personnel and departments, commissions, boards or agencies presently covered by merit systems shall come under the provisions of KRS 18.110 to 18.340 as of July 1, 1960.]

[(b) Each head of a department, commission, board or agency shall certify to the governor at any time after July 1, 1960, but no later than July 1, 1961, that his department, commission, board or agency is ready to come under the provisions of KRS 18.110 to 18.340. Upon receipt of such certification, the governor shall approve said certification and so inform the personnel board.]

Section 3. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.340 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employees of the general assembly including the employees of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the governor and the lieutenant governor;

(e) Heads of departments, including those appointed by boards and commissions except as provided in KRS 18.130;

(f) One (1) principal assistant or deputy for each head of a department except as provided in KRS 18.130;

(g) One (1) additional principal assistant or deputy, or other major assistants as may be necessary for making and carrying out policy, for each head of a department in those instances in which the nature of the functions, size or complexity of the agency involved are such that the personnel board may approve such an addition or additions on petition of *the department head* approved by the commissioner of personnel;

(h) Division directors, except as provided in KRS 18.130, subject to the provisions of KRS 18.150;

(i) Physicians employed as such *in institutions for treatment of patients with mental illness or tuberculosis*; [by the state tuberculosis hospital commission and the department of mental health]

(j) One (1) private secretary for each head of a department and for each principal assistant or deputy not included in the classified service;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employees of such institutions, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.340 applicable to faculty members and staff; and officers, teachers, and employees of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor;

(o) [Unskilled laborers, truck drivers and other light equipment operators, excepting institutional employees of the unskilled laborer category, and] *S[s]easonal and emergency employees* [. The personnel board shall determine the positions within these categories and shall promulgate rules relating thereto];

(p) Officers and members of the state militia;

(q) Peace officers in the department of *justice* [public safety], Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers;[.]

(r) *University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner.*

(2) Nothing in KRS 18.110 to 18.340 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Provided, however, that nothing herein is intended or shall be construed to affect any position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employees with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 4. KRS 18.190 is amended to read as follows:

The commissioner of personnel shall be the executive and administrative head of the department of personnel and shall supervise and control all examinations and work of the department. He shall act as the personnel board's adviser on all matters pertaining to the civil service of this state. Within the limitations of the budget, the commissioner of personnel shall appoint and supervise such staff as may be needed in the department of personnel to carry out the purposes of KRS 18.110 to 18.340. It shall be the duty of the commissioner of personnel, with the aid of his staff to:

(1) Attend all meetings of the personnel board;

(2) Prepare and recommend to the personnel board rules and regulations for the purpose of carrying out the provisions of KRS 18.110 to 18.340. Such rules shall provide, among other things, the manner of completing appointments and promotions, including multiple and simultaneous certifications; rejection of ineligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examination; leaves of absence with and without pay; transfers, reinstatements, lay-offs; public notice of examinations; procedures for changes in rates of pay; and other conditions of employment;

(3) Establish general procedures for personnel recruitment, for certification, for improving the efficiency of employed personnel, and for the separation of employees deemed unsatisfactory or excessive by agency or department heads subject to the provisions of KRS 18.110 to 18.340;

(4) Appoint such examiners and technicians as are necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(5) Prepare and maintain a record of all employes, showing for each employe his name, post office address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make such data and the class specifications for all positions available to the press and public;

(6) Prepare, in accordance with the provisions of KRS 18.110 to 18.340 and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(7) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18.110 to 18.340;

(8) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18.110 to 18.340 and rules and regulations prescribed thereunder;

(9) Prepare, in cooperation with appointing authorities and others, programs for appraising employe work performance and *collaborate* [prepare, in cooperation] with the several departments of the commonwealth in the development of programs for employe training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the commonwealth, and make available the facilities of the department of personnel to this end;

(10) Provide personnel services to unclassified employes in agreement with the agencies involved not otherwise provided for herein;

(11) Present, in accordance with the provisions of KRS 45.070, budget estimates for the support of the personnel system created by KRS 18.110 to 18.340;

(12) Make a report and submit the same to the personnel board and to the governor not later than October first of each year; and

(13) Discharge such other duties as are imposed upon him by KRS 18.110 to 18.340, or by the board. The commissioner of personnel on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

Section 5. KRS 18.210 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the personnel board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, *and after filing with the Legislative Research Commission in accordance with KRS 13 and procedures adopted thereunder*. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the commissioner of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

[(4) For the granting of appropriate preference in original entrance examinations to qualified persons who have been members of the armed forces of the United States in time of war, and who were honorably discharged. Such preference shall be in the form of points added to the final passing grades of such persons on

original entrance examinations, Provided That they otherwise qualify and are entitled to appear on the list of those eligible for appointment. The preference may be as much as five (5) points for nondisabled persons, and as much as ten (10) points for persons currently receiving compensation from the United States veterans' administration for war-service-incurred disabilities certified as compensable. The rank of such persons on the eligible list shall then be determined on the basis of their augmented rating;]

(4)[(5)] For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(5)[(6)] For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(6)[(7)] For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(7)[(8)] For the appointment of a person whose score is included in the three (3) highest scores earned on the examination;

(8)[(9)] For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. The appointing authority shall, within thirty (30) days prior to the expiration on an employee's probationary period, notify the commissioner in writing whether the probationary employee is recommended for permanent status. Only if the appointing authority certifies to the satisfactory nature of the probationary employee's services, shall permanent status be conferred;

(9)[(10)] For emergency employment for not more than thirty (30) *working* days with or without examination, with the consent of the commissioner;

(10)[(11)] For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed *to the same position* [, except during the first year after July 1, 1960 in order to avoid stoppage of orderly conduct of the business of the commonwealth];

(11)[(12)] For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(12)[(13)] For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(13)[(14)] For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employees and for the use of such methods of appraisal in personnel actions;

(14)[(15)] For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employees so laid off, giving consideration in both lay-offs and re-employment to qualifications, performance records, conduct and seniority in service;

(15)[(16)] For imposition as disciplinary measures of a fine of not more than ten (10) days' pay or for suspension from the service without pay for not longer than thirty (30) days;

(16)[(17)] For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(17)[(18)] For establishment of a plan for resolving employee grievances and complaints;

(18)[(19)] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170 (2);

(19)[(20)] For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employee relations;

(20)[(21)] For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted;

(21)[(22)] For such other rules and administrative regulations not inconsistent with KRS 18.110 to 18.340, as may be proper and necessary for its enforcement.

Section 6. KRS 18.212 is amended to read as follows:

(1) *An honorably discharged war veteran shall have five (5) points added to his score on his entrance examination for merit system positions.*

(2) *Any honorably discharged war veteran whom the Veterans Administration Benefit Rating Board determines has service-connected disabilities shall have ten (10) points added to his entrance examination score.*

(3) *Veterans, their wives, widows, and mothers are eligible for preference points only after passing an appropriate examination.*

(4)[(1)] The wife of a veteran of the armed forces of the United States who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall be entitled to a ten (10) point preference. In such a case, the wife loses her right to preference if the husband recovers. Also, if the husband's military service was peacetime service, she loses her right to preference if he dies.

(5)[(2)] Until she remarries, the widow of an honorably separated veteran who served on active duty during any war, or during the period April 28, 1952, through July 1, 1955, or in a campaign or expedition for which a United States campaign badge or service medal was authorized shall be entitled to a ten (10) point preference. This includes the widow of a man meeting any of these service requirements who died while in the armed forces, unless the circumstances surrounding his death would have been cause for other than honorable separation.

(6)[(3)] The mother of a veteran who lost his life under honorable conditions while on active duty in a war or in a campaign or expedition for which a campaign badge or service medal has been authorized, or during the period April 28, 1952, through July 1, 1955, or who became permanently and totally disabled because of a service-connected disability, shall be entitled to a ten (10) point preference provided that she is widowed, divorced, or separated from the father of the veteran, or the father is permanently and totally disabled. An otherwise eligible mother who has remarried may be granted preference only if, with reference to the subsequent marriage, her husband is permanently and totally disabled, or she is divorced or legally separated, or she has been widowed.

[(4) As used herein, "ten (10) point preference" means the greatest number of points preference in examination for a position in the state service allowable under subsection (4) of KRS 18.210 to persons having served in the armed forces of the United States.]

Section 7. KRS 18.220 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the governor proposed rules for the unclassified service persons in positions enumerated in paragraphs (f), (g), (h), (i), (j), and (o) of subsection (1) of KRS 18.140. Such rules shall be approved by the governor and promulgated according to KRS chapters 12 and 13. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. Any employee affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employees in the unclassified service, after consultation with appointing authorities and the commissioner of finance, and taking into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the commissioner of finance. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(3) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(4) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(5) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employee relations;

[(6) For establishing the physical requirements and obtaining proof of meeting such requirements of persons applying for unskilled laborer positions outside the classified service;]

(6)[(7)] For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.340, as may be proper and necessary for its enforcement.

Section 8. KRS 18.300 is amended to read as follows:

(1) Subject to the approval of the personnel board the commissioner may enter into agreements with any municipality or other political subdivision of the commonwealth to furnish services and facilities of the

department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the commonwealth are hereby authorized to enter into such agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18.110 to 18.340.

(3) The commissioner may, upon the request of the *secretary of the department for human resources* [commissioner of health] and upon the approval of the personnel board, furnish merit system services to "local" departments of health.

Section 9. KRS 18.360 is amended to read as follows:

[(1)] A state employe [who holds a supervisory position and] who is authorized to work one or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. The maximum amount of compensatory leave that may be accumulated shall be one hundred (100) hours. Upon separation from state service, unused compensatory leave shall be forfeited. An employe who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

[(2)] A "supervisory position" is a position which has been designated as supervisory by the agency head or appointing authority. All supervisory positions shall be designated as such in the job description applicable for that position.]

The Committee Amendment to **HB 491** is as follows:

Amend printed copy of House Bill 491 page 24, line 19, by adding a new section to read as follows:

"Section 10. The provisions of Section 3 of this Act amending KRS 18.140 (1) (i) are intended to have precedence over and shall supersede the provisions of Article VI, Section 32 of Senate Bill 112 with respect to the classified service status of physicians employed by the Department for Human Resources."

HB 493, AN ACT relating to Revenue and Taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.190 is amended to read as follows:

(1) No present or former commissioner or employe of the department of revenue, member of a county board of supervisors, property valuation administrator or employe thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. *Further, this prohibition does not preclude the commissioner or any employe of the department of revenue from testifying in any court, or from introducing as evidence returns or reports filed with the department, in an action for violation of state or federal tax laws.*

(2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the department shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the department of revenue by any licensee under the gasoline excise tax law may be made public by the department.

Section 2. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Revenue;

(2) "Department" means the Department of Revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1973 [1971], exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701 (a) (6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701 (a) (24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974 [1968], "federal income tax" means [the lesser of the two amounts computed under (a) and (b) of this subsection, minus any federal tax credits actually utilized by the taxpayer:

(a) T]he amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, *minus any federal tax credits actually utilized by the taxpayer;*

[(b) The amount of federal income tax which would result from the application of the income tax rates contained in the Internal Revenue Code in effect December 31, 1967 to the taxpayer's federal taxable income for the taxable year as defined in Section 63 of the Internal Revenue Code in effect during such taxable year and taxed under the provisions of this chapter;]

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

[(b) Exclude dividend income received from stock of banks and trust companies organized under the laws of this state;]

(b)[(c)] Exclude undistributed income *or any losses* attributed to shareholders of a corporation which has elected to be taxed under Subchapter S of Chapter 1 of the Internal Revenue Code;

(c)[(d)] Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(d)[(e)] Include interest income derived from obligations of sister states and political subdivisions thereof;

[(f) Include the amount of dividends excluded by Section 116 of the Internal Revenue Code;]

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) The net operating loss deduction allowed under Section 172 of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, *except that such taxes paid to foreign countries may be deducted;*

(c) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090 (h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090 (h);

(d) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year, other than such refunds or credits attributable to losses incurred prior to January 1, 1967. Notwithstanding the preceding provision, no federal income tax refund or credit shall be included for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall include all overpayments of federal income tax refunded or credited as follows:

1. Compute all overpayments of federal income tax refunded or credited during the entire taxable year, and
2. Multiply such overpayments of federal income tax refunded or credited by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year;
- (d) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (e) Exclude fifty percent of gross income derived from any disposal of coal covered by Section 631 (c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
- (f) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
- (g) Include the amount calculated under KRS 141.205;
- (h) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, except the following:
 - (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income *and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof*;
 - (b) The deductions contained in Sections 172, 176, 242, 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) *Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once*;
- (14) (a) "Taxable net income," in the case of corporations having income taxable only in this state, means "net income" as defined in subsection (13) of this section minus federal income tax as defined in subsection (8) of this section; and
 - (b) "Taxable net income," in the case of corporations having income taxable both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120, minus federal income tax as defined in subsection (8) of this section;
 - (c) Notwithstanding the above provisions, no federal income tax deduction shall be allowed for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall determine the federal income tax deduction as follows:
 1. Compute a federal income tax deduction, on the basis of the entire taxable year, by the provisions of subsection (8) of this section, and
 2. Multiply such federal income tax deduction by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year;
- (15) "Person" means "person" as defined in Section 7701 (a) (1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401 (d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401 (c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401 (a) of the Internal Revenue Code;
- (23) "Payroll Period" means "payroll period" as defined in Section 3401 (b) of the Internal Revenue Code;
- (24) "Corporations" means "corporations" as defined in Section 7701 (a) (3) of the Internal Revenue Code.

Section 3. KRS 141.070 is amended to read as follows:

(1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of his net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited on his return with the income tax so paid by him to the other state, upon his producing to the proper assessing officer satisfactory evidence of the fact of such payment, except that application of such credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored. [The credit provided for by this subsection shall not be granted to a taxpayer when the laws of the other state, under which the income in question is subject to tax assessment, provide for a credit to the taxpayer substantially similar to that granted by subsection (2).]

(2) Whenever an individual not a resident of this state has become liable for income tax to the state where he resides upon his net income for the taxable year, derived from sources within this state and subject to taxation under this chapter, the amount of income tax payable by him under this chapter shall be credited with the proportion of the tax so payable by him to the state where he resides that his income subject to taxation under this chapter bears to his entire income upon which the tax so payable to the other state was imposed, but only if the laws of the other state grant a substantially similar credit to residents of this state subject to income tax under such laws, or impose a tax upon the personal incomes of its residents derived from sources in this state and exempt from taxation the personal incomes of residents of this state. No credit shall be allowed against the amount of the tax on any income taxable under this chapter that is exempt from taxation under the laws of the other state.]

(2)[(3)] An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020 (4) if the laws of the state of which such individual was a resident at the time such income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to such state, if the state of residence of such nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the department of revenue from requiring any information reports pursuant to KRS 141.150 (2).

[(4)] The commissioner of revenue may, with the approval of the attorney general, enter into agreements with the taxing authorities of states having income tax withholding statutes with such agreements to govern the amounts to be withheld from the wages and salaries of residents of such other state or states under the provisions of this chapter when such other state or states grant similar treatment to the residents of this state. Such agreements may provide for recognition of the anticipated tax credits allowed under this section in determining the amounts to be withheld.]

Section 4. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the taxpayer and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the taxpayer not allocated under subsections (4) through (8) of this section;

(h) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation having income from business activity which is taxable both within and without this state shall allocate and apportion its net income as provided in this section.

(3) For purposes of allocation and apportionment of income under this section, a corporation is taxable in another state if, in that state it is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or corporate stock tax; or that state has jurisdiction to subject the corporation to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or corporate stock tax, regardless of whether, in fact, the state does or does not.

(4) Rents and royalties from real or tangible personal property, capital gains and losses, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (5) through (8) of this section.

(5) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(6) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(7) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(8) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(9) All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero such property shall be valued by the department under regulations promulgated by the department. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals, provided that such rental and such sub-rentals are reasonable. If the department determines that the annual rental or sub-rental rate is unreasonable, or if a nominal or zero rate is charged, the department may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government [or the taxpayer is not taxable in the state to which the property is delivered or shipped].

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance. .

(10) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(11) Public service companies and financial organizations having income from business activity which is taxable both within and without this state shall allocate such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (5) through (8) of this section.

(b) Business income shall be allocated to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3). The payroll factor shall be determined as provided in subsection (9) (b) of this section. The property factor and sales factor shall be determined as provided by regulations promulgated by the department.

Section 5. KRS 141.205 is amended to read as follows:

(1) *The department may require either a consolidated return or a combined return from any or all corporations conducting inter-corporate transactions whenever the department finds that such inter-corporate transactions reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s) below the amount which would result if the transactions were at arms-length.*

(2) *The department is authorized and empowered to assess the tax against any of the corporations whose income is included in the consolidated or combined return in such manner as it may determine necessary to prevent the avoidance of income tax.*

[(1) The department may require any parent corporation or subsidiary corporation doing business within this state to file a consolidated return covering the entire operations of the parent corporation and its subsidiaries, whenever it finds that the intercorporate transactions of the related group tend to reduce the net income of the corporation, or corporations, doing business within this state below the amount that would probably result if such corporation, or corporations, was not a member of the related group.

(2) The department is authorized and empowered, in such manner as it may determine, to assess the tax against any of the corporations whose net income is involved in the consolidated return upon the basis of the combined net income and such other information as it may possess, or it may adjust the tax in such other manner as it shall determine necessary to prevent avoidance of taxes or to clearly reflect the taxable net income earned by such corporation or corporations.

(3) Any corporation owning or controlling either directly or indirectly more than 50 percent of the voting stock of another corporation shall be deemed a parent corporation for purposes of this section. Any corporation having a parent corporation shall be deemed a subsidiary corporation for purposes of this section. Corporations having a common parent shall be considered members of a related group.

(4) If the consolidated return required under this section is not filed within sixty days after demand by the department, said parent corporation or subsidiary corporation or both, shall be subject to the penalty provided in this chapter for failure to file returns.]

(3)/[(5)] In the case of [a] corporations [doing business in this state and] not required to file a consolidated return under subsection (1) of this section that carried on transactions with stockholders or affiliated corporations directly or indirectly, the department shall adjust the net income of such corporations to an amount that would result if such transactions were carried on at arm's length.

(4)/[(6)] Notwithstanding subsection (8) of KRS 141.010, for taxable years beginning after December 31, 1969, any corporation which participates in filing a consolidated federal income tax return under Internal Revenue Code Section 1501 shall determine the federal income tax deduction as provided in this subsection. That deduction shall be the lesser of the two amounts computed under paragraphs (a) and (b) of this subsection, and shall be adjusted to reflect only federal income tax applicable to income taxed under the provisions of this chapter:

(a) The federal income tax liability shown on the consolidated federal income tax return for the taxable year, minus any federal tax credits actually utilized by the consolidated group, apportioned by a fraction, the numerator of which is the federal taxable income of the separate corporation and the denominator of which is the federal taxable income of the consolidated group before reduction for losses sustained by members of the group;

(b) The federal income tax liability of the consolidated group which would result from the application of the income tax rates contained in the Internal Revenue Code in effect December 31, 1967 to the consolidated federal income for the taxable year, minus any federal tax credits actually utilized by the consolidated group, apportioned by a fraction, the numerator of which is the federal taxable income of the separate corporation and the denominator of which is the federal taxable income of the consolidated group before reduction for losses sustained by members of the group;

(c) Notwithstanding the above provisions, no federal income tax deduction shall be allowed for taxable years beginning after December 31, 1971. Any corporation whose taxable year begins in 1971 and ends in 1972 shall determine the federal income tax deduction as follows:

1. Compute a federal income tax deduction, on the basis of the entire taxable year, by the provisions of this subsection, and

2. Multiply such federal income tax deduction by the ratio of the number of days of the taxable year in 1971 to the total number of days in the taxable year.

Section 6. KRS 141.210 is amended to read as follows:

(1) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as hereinafter provided. A notice of the assessment shall be mailed to the taxpayer.

(a) In the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time;

(b) In the case of a return where a taxpayer other than a corporation understates his net income or omits from net income an amount properly includible therein or both which understatement or omission or both is in excess of 25 per cent of the amount of net income stated in the return the excess may be assessed at any time within six (6) years after the return was filed;

(c) In the case of a return wherein a corporation understates its taxable net income or omits from taxable net income an amount properly includible therein or both which understatement or omission or both is in excess of 25 per cent of the amount of taxable net income stated in the return, the excess may be assessed at any time within six (6) years after the return was filed.

(d) If any excess is assessed on account of any income which has been returned for taxation by any other taxpayer, the department, with the consent of such other taxpayer, his personal representatives or heirs, shall reduce the amount of the excess assessed for each year by the amount of the income tax paid for that year by such other taxpayer on account of the income in question.

(2) For the purpose of subsection (1) of this section a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day. The times provided for in subsection (1) of this section may be extended by agreement between the taxpayer and the department.

(3) It shall be the duty of every taxpayer to:

(a) Notify the department in writing of every examination of his books and records with respect to his net income as reported on his federal income tax return within thirty (30) days after he has or should have had knowledge of the beginning of such examination by the internal revenue service, and

(b) Submit a copy of the final determination of such federal audit within thirty (30) days of its conclusion.

Failure by a taxpayer to notify the department within the time prescribed of a federal examination shall automatically suspend the limitations set forth in subsection (1) of this section *for assessments directly related to the federal examination*, until ninety (90) days after the department receives notice in writing of the above actions from the taxpayer.

(4) [(a) Notwithstanding the above provisions, the department shall have ninety (90) additional days, to make an assessment or authorize an overpayment, after the department is notified in writing by the taxpayer of the final determination of any federal audit.]

(a)[(b)] When any taxpayer extends by agreement the statute of limitations on deficiencies of federal income taxes as provided in section 6501 (c) (4) of the internal revenue code, a copy of such extension shall be submitted to the department within thirty (30) days from the date such agreement is signed by the taxpayer.

(b)[(c)] Any extension by agreement of the statute of limitations on deficiencies of federal income taxes shall constitute an extension of the statute of limitations, for assessments under this section or overpayments under KRS 141.235, for a like period.

(c) *Notwithstanding the provisions of (a) and (b) above, the department shall have ninety (90) additional days to either make an assessment or authorize an overpayment after the department is notified in writing by the taxpayer of the final determination of any federal audit.*

Section 7. KRS 141.215 is amended to read as follows:

[(1)] *Members of* [Every person on active service with] the United States army, navy, marines, air force, or nursing service of the United States government *who serve in an area designated as a combat zone by Presidential Proclamation and who are* [is] required by law to file an income tax return and pay income taxes to the state of Kentucky shall not be required to file such return and pay such taxes, which would otherwise become due during such period of service, until twelve (12) months after *such combat zone service* [the termination of the national emergency], or twelve (12) months after the termination of his period of military service, whichever is the earlier.

[(2) The provisions of this section shall be effective for returns due for all taxable years beginning on or after January 1, 1951.]

Section 8. Section 143.013 of the Kentucky Revised Statutes is hereby repealed.

Section 9. The provisions of this Act shall apply to taxable years beginning after December 31, 1973.

The Committee Amendment to **HB 493** is as follows:

Amend printed copy of House Bill 493 page 23, line 19, by inserting before the word "return" the words "or combined"

and on page 29, line 7, by changing "143.013" to read "141.013"

HB 552, AN ACT relating to Community Action Corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 273 is created to read as follows:

As used in this Act, unless the context otherwise requires:

(1) "Community Action Corporation" shall mean a corporation organized for the purpose of alleviating poverty within a community or area by developing employment opportunities; by bettering the conditions under which people live, learn, and work; and by conducting, administering, and coordinating similar programs.

Section 2. A new section of KRS Chapter 273 is created to read as follows:

A Community Action Corporation shall be organized and shall operate subject to the provisions of this Act. To the extent this Act is inconsistent with the provisions of this chapter, the provisions of this Act shall be controlling.

Section 3. A new section of KRS Chapter 273 is created to read as follows:

(1) In addition to the requirements of section 4 of this Act, the articles of incorporation of a Community Action Corporation shall:

(a) State the name of the corporation, which shall include the words "Community Action Corporation";

(b) Provide for a board of directors of not more than 51 members to serve as the governing body of the corporation; and

(c) Provide that the board of directors be so established and organized that the poor and residents of the area concerned will be able to influence the character of programs affecting their interests and regularly participate in the planning and implementation of those programs. The articles of incorporation shall be deemed to meet these requirements if they provide that:

(i) One-third of the members of the board shall be public officers, including elected public officers or their representatives, unless the number of public officers reasonably available or willing to serve is less than one-third of the membership of the board;

(ii) At least one-third of the members of the board shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area to be served by the Corporation;

(iii) The remaining one-third of the members of the board shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and shall be interested in the community; and

(iv) Each member of the board who is to represent a specific geographic area within a community shall reside in the area he represents.

(2) The provisions of subsection (1) (c) of this section do not constitute the exclusive means of fulfilling the requirements for incorporation. The Secretary of the Department for Human Resources or his designate may, in the exercise of reasonable discretion, approve other means of fulfilling such requirements.

Section 4. A new section of KRS Chapter 273 is created to read as follows:

When the articles of incorporation, amendments to the articles, or agreements of merger or consolidation which provide for the creation of Community Action Corporation are filed in the Office of the Secretary of State, the Secretary shall submit them to the Secretary of the Department for Human Resources for examination. If such articles, amendments, or agreements of merger or consolidation are found by the Secretary of the Department for Human Resources to be in accordance with this Act and not inconsistent with the Constitution and laws of the United States and of the Commonwealth, he shall endorse his approval thereon and deliver them to the Secretary of State who shall file and record them.

Section 5. A new section of KRS Chapter 273 is created to read as follows:

In order to accomplish its purposes, a Community Action Corporation may:

- (a) Borrow money for any of the purposes of the Corporation;
- (b) Issue bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchise, rights and privileges of every kind or nature or any part thereof or interest therein;
- (c) Apply for and accept loans, grants, and other assistance from any entity, public or private, including but not limited to, the Commonwealth and the United States;
- (d) Perform all acts and things necessary or convenient to carry out its purposes.

Section 6. A new section of KRS Chapter 273 is created to read as follows:

- (1) A Community Action Corporation may be designated by:
 - (a) One or more counties;
 - (b) One or more municipal corporations; or
 - (c) One or more counties and one or more municipal corporations; or
 - (d) To conform to area planning districts as provided in KRS Chapter 147A as the agency of each such political subdivision for the alleviation of poverty.

(2) Such designation may occur when the legislative authority of each such political subdivision has determined that the policy of the political subdivision is to promote the health, safety, morals, and general welfare of its inhabitants and that such policy may be implemented through the designation of a Community Action Corporation as such an agency. Such designation shall be made by the legislative authority of the political subdivision by resolution or ordinance.

(3) Any political subdivision which has designated a Community Action Corporation as such an agency may enter into an agreement with it to provide that the Corporation shall prepare a plan for the political subdivision for the alleviation of poverty. Such plan shall include the extent to which the Corporation shall participate as the agent of the political subdivision in carrying out such a plan. Such plan shall be confirmed by the legislative authority of the political subdivision.

(4) The governing board of a Community Action Corporation designated as the agent of one or more political subdivisions shall include appointed or elected officials of the political subdivisions.

(5) Any agreement entered into under this section may be amended or supplemented from time to time by the parties between whom such agreement was made.

(6) Any agreement entered into under this section may designate the Community Action Corporation as the agent of the political subdivision for the receipt and expenditures of loans, grants, and other funds, including, but not limited to, General and Special Revenue Sharing funds from the Commonwealth and the United States, for the purpose of alleviating poverty within the subdivision.

Section 7. A new section of KRS Chapter 273 is created to read as follows:

- (1) A Community Action Corporation may be designated by the Commonwealth as the agent of the Commonwealth for the alleviation of poverty within such portion of the Commonwealth as shall be set out in such designation.

(2) Such designation shall be made by the Governor and shall specify the terms and conditions for the Corporation.

Section 8. A new section of KRS Chapter 273 is created to read as follows:

(1) Annually, before the last day of June, a Community Action Corporation shall submit a report to the Secretary of the Department for Human Resources, together with an audit by a certified public accountant. The Secretary is hereby authorized to receive and file the report and audit.

(2) Each report and audit shall cover all financial and other transactions of the Corporation for the preceding year.

(3) The Secretary shall analyze each report and audit to determine if the activities of the Corporation are in accordance with the provisions of this Act.

Section 9. A new section of KRS Chapter 273 is created to read as follows:

(1) If any Community Action Corporation, required by section (8) of this Act to submit a report, fails or neglects to make the report for 90 days after the time prescribed by law, the Secretary of the Department for Human Resources shall certify such fact to the Secretary of State.

(2) The Secretary of State shall thereupon cancel the articles of incorporation of such Corporation by filing and recording the certificate issued by the Secretary of the Department for Human Resources or a true copy thereof. Thereupon, all of the powers, privileges, and franchises conferred upon the Corporation by its articles of incorporation shall cease. The Secretary of State shall immediately notify the Corporation of such action taken.

Section 10. A new section of KRS Chapter 273 is created to read as follows:

In the event of any voluntary or involuntary dissolution, liquidation, or cancellation of the articles of incorporation of a Community Action Corporation, any remaining assets shall be applied to such public purposes in the community or area as may be determined by:

- (a) The board of directors; and with the approval of
- (b) The Secretary of the Department for Human Resources; and
- (c) The circuit court of the county wherein such Corporation has its principal place of business.

HB 581, AN ACT relating to state retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.645, unless the context otherwise requires:

- (1) "System" means the state police retirement system created by KRS 16.505 to 16.645;
- (2) "Board" means the board of trustees of the Kentucky retirement systems;
- (3) "Employer" or "state police" means the division of state police of the department of public safety, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer *and employee contributions deducted except as otherwise provided in KRS 16.541*;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the commonwealth;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, together with interest credited on such amounts as provided in KRS 16.505 to 16.645, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer; living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;
- (9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceeding the member's effective retirement date. Such

rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, or one year.

(11) [(10)] "Retired member" means any member entitled to receive benefits under the provisions of KRS 16.505 to 16.645;

(12) [(11)] "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) [(12)] "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board *except in case of disability retirement the beneficiary options payable shall be computed by adding ten (10) years to the age of the member*;

(14) [(13)] "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the division of state police;

(15) [(14)] "Normal retirement date" means the first day of the month following or coinciding with a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member with thirty (30) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) [(15)] "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) [(16)] "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married *or who is an unmarried full-time student, as defined in the Federal Social Security Act, who has not attained age twenty-two (22)*;

(18) [(17)] "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.645;

(19) [(18)] "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) [(19)] "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) [(20)] "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has twenty (20) years of service;

(22) [(21)] "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535 [16.525]; and

(23) [(22)] "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky state police *appointed pursuant to KRS 16.050 [on July 1, 1958,]* who are entitled to exercise the powers of peace officers[, and who hold permanent rank in the division of state police up to and including the rank of captain, and all persons who become such officers subsequent to July 1, 1958].

(2) A member with five (5) or more years of service credit in the state police retirement system who accepts regular full-time employment with the department of public safety in a position ordinarily included in the Kentucky employees retirement system may, upon the recommendation of the state police personnel board and approval of the board of trustees of the retirement systems, elect to retain membership in the state police retirement system.

(3) After July 1, 1958, no person who is age thirty-one (31) or over shall be eligible to become an employee of the Kentucky state police.

(4) Reciprocal rights provided for in subsection (2) of this section may be exercised retroactively by a member in service on or after July 1, 1968.

Section 3. KRS 16.573 is amended to read as follows:

If a member's employment has been terminated for thirty (30) consecutive working days, he, if living, if not, his designated beneficiary, shall be paid, on demand, but not later than *thirty (30) [ninety (90)]* days thereafter, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due under any of the provisions of KRS 16.505 to 16.645.

Section 4. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under any one (1) of the plans set forth in this section. *In addition to the optional forms of annuities permitted under this*

section, the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarially equivalent benefits, with due regard to selection against the fund. The member shall not have the right to revoke such election after the initial benefit payment has been drawn by the state treasurer.

(4) The member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and fifteen-hundredth per cent (2.15%) of final compensation for each year of service credit.

(5) The member may elect to receive a decreased monthly retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to *his beneficiary* [a dependent receiving at least one-half (1/2) of his support from the member, or the spouse of the deceased member] during the lifetime of such person. Such benefit payments shall be actuarially equivalent to the retirement allowance payable under subsection (4) of this section.

(6) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary, [if a dependent receiving at least one-half (1/2) of his support from the member, or the spouse of the deceased member,] shall receive the remaining payments monthly for the duration of the ten (10) years.

(7) The member may elect to receive a decreased monthly retirement allowance during his lifetime and have such retirement allowance continued after his death to *his beneficiary* [a dependent receiving at least one-half (1/2) of his support from the member, or the spouse of the deceased member,] during the lifetime of such person. Such benefit payments shall be actuarially equivalent to the retirement allowance payable under subsection (4) of this section.

(8) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

Section 5. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire on benefits payable as provided in KRS 16.576, dies at any time before the first benefit payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, [who is his spouse or a dependent receiving at least one-half (1/2) of his support from the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for 120 months certain.

(2) If a member in active employment or on authorized leave of absence with eight (8) or more years of service dies at any time before his normal retirement date and has on file with the board at the time of his death a written designation of a beneficiary, [who is his spouse or a dependent receiving at least one-half (1/2) of his support from the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for 120 months certain.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file with the board at the time of his death a written designation of a beneficiary, [who is his spouse or a dependent receiving at least one-half (1/2) of his support from the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (7) of KRS 16.576 or the said beneficiary may elect the actuarial equivalent payable for 120 months certain.

(4) *An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the fifty per cent (50%) joint and survivor factor as provided for in Section 4(5), then reduced by fifty per cent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.*

(5) *The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.*

Section 6. KRS 16.579 is amended to read as follows:

(1) Should a retired member receiving benefits under subsection (4) of KRS 16.576 die at any time after retirement but before receiving total retirement allowances provided in KRS 16.505 to 16.645 at least equal to his accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the properly designated beneficiary, if then living, otherwise, to the estate of the deceased retired member.

[(2) Should a retired member receiving a retirement allowance for ten (10) years certain under subsection (6) of KRS 16.576 die before receiving one hundred and twenty (120) monthly payments and his beneficiary is not a dependent receiving at least one-half (1/2) of his support from the member, or his spouse, the executor or administrator of the estate of the member may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the member.]

(2) [(3)] Should a beneficiary receiving a retirement allowance for the duration of ten (10) years certain under subsection (6) of KRS 16.576 die before receiving the remaining monthly payments, the executor or administrator of the estate of the beneficiary may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

(3) [(4)] Should a retired member who elected an optional retirement plan under KRS 16.576 (5) or (7) and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS 16.505 to 16.645 at least equal to the member's accumulated contributions as of the date of his retirement, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the last deceased. In the event of the simultaneous death of the member and beneficiary, the estate of the member shall become the beneficiary.

(4) [(5)] Should a beneficiary receiving a lifetime retirement allowance under KRS 16.578 die before receiving total retirement allowances provided in KRS 16.505 to 16.645 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between such accumulated contributions and such total allowances shall then be payable in a lump sum to the estate of the beneficiary.

(5) [(6)] Should a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS 16.578 die before receiving one hundred twenty (120) monthly payments, the executor or administrator of his estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

Section 7. KRS 16.581 is amended to read as follows:

(1) In the event disability is total and permanent as provided in KRS 16.580 and occurs on or after July 1, 1968 as a direct result of an "act in line of duty," the member in service shall retire on his disability retirement date and shall be eligible to receive retirement benefits as follows:

(a) For the disabled member[, a lump sum payment of \$10,000 or] benefits as provided under subsection[s] (2) of this section, *except that there shall be no service requirement for eligibility except that the member be employed and the monthly retirement allowance payable shall not be less than twenty-five per cent (25%) of the member's monthly final rate of pay* [(4) to (7) of KRS 16.576].

(b) For each dependent child of the member on his disability retirement date, who is alive[, unmarried and under age eighteen] at the time any particular payment is due a monthly payment *equal to 10% of the disabled member's monthly final rate of pay, however, total maximum dependent children's benefits shall not be greater than 40% of the member's monthly final rate of pay* [of \$53.75].

(2) In the event disability is total and permanent as provided in KRS 16.580 and is not a direct result of an "act in line of duty," the member in service with *five (5) [eight (8)]* years of service credit shall retire on his disability retirement date and shall be eligible to receive benefits under subsections (4) to (7) of KRS 16.576[.] *except that service credit shall be added to the member's total service beginning with his last date of paid employment and continuing to his fifty-fifth (55th) birthday, however, the maximum service credit added shall not exceed the total service the member had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed 20 years, except when the member has accumulated total service of 20 or more years his total service shall be used in computing disability benefits.*

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

Section 8. KRS 16.591 is amended to read as follows:

(1) In the event disability is partial as provided in subsections (1) and (2) of KRS 16.586 and as determined by the board, a member [in service with eight (8) years of service credit may retire on his disability retirement date and] shall be eligible to receive benefits under subsection[s] (2) of Section 7 [(4) to (7) of KRS 16.576] except that the monthly retirement allowance shall be reduced by his disability ratio.

(2) In event disability is partial as provided in subsection (3) of KRS 16.586 and as determined by the board, *the retirement allowance of such member shall be reduced by his disability ratio.* [eligible to receive

benefits under subsections (4) to (7) of KRS 16.576, except that the member's service credit shall include the period of total and permanent disability, and the monthly retirement allowance shall be reduced by his disability ratio.] *Reduced [P]payments* shall begin in the month following the termination of payments under total and permanent disability.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

Section 9. KRS 16.601 is amended to read as follows:

(1) In the event the death of a member in service occurs on or after July 1, 1968 as a direct result of an "act in line of duty" and the member has on file with the board at the time of his death a written designation of a beneficiary who is his spouse, then said beneficiary may elect to receive a lump sum payment of \$5,000 and a monthly payment *equal to twenty-five per cent (25%) of the member's monthly final rate of pay* [of \$107.50] beginning in the month following the member's death and continuing each month *until* [for 120 months or] death or until she remarries, whichever occurs first.

(2) In the event the death of a member in service occurs on or after July 1, 1968 as a direct result of an "act in line of duty" and the member has on file with the board at the time of his death a written designation of a beneficiary other than his spouse, who is a dependent receiving at least one-half of his support from the deceased member, then said beneficiary may elect to receive a lump sum payment of \$10,000.

(3) In the period of time following a member's death during which dependent children survive, monthly payments [of \$53.75] shall be made for each *dependent* child who is alive, *equal to 10% of the deceased member's monthly final rate of pay, however, total maximum dependent children's benefits shall not be greater than 40% of the deceased member's monthly final rate of pay*, [unmarried and under age eighteen] at the time any particular payment is due. Such payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the board.

(4) Payments provided for in this section shall be made in lieu of any other benefits due under any of the provisions of KRS 16.505 to 16.645.

Section 10. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.645 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, *except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders*. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.645 shall be registered in the name "state police retirement system of the commonwealth of Kentucky" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the *general manager* [executive secretary] of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the commonwealth.

Section 11. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements, as provided for the Kentucky employees retirement system as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675 [61.645];
- (5) Exemption of benefits of the system for taxation as provided for by KRS 61.690;
- (6) Effect of false statement and falsification of records, as provided for by KRS 61.700;
- (7) Penalties as provided for by KRS 61.990;
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Years of service credit, as provided for by KRS 61.545;
- (10) Uninvested funds, maximum, as provided for by KRS 61.585;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Transfer of dormant accounts, as provided for by KRS 61.626;
- (14) Members account, confidential, as provided for by KRS 61.661;

- (15) Cessation of membership, loss of benefits, as provided for by KRS 61.550; [and]
 - (16) Correction of errors in records, as provided for by KRS 61.685;[.]
 - (17) *Maximum disability benefit, as provided for by Section 31;*
 - (18) *Retirement application procedure, effective retirement date as provided for by Section 18(2) to*
- (7);
- (19) *Employer contributions as provided for by Section 17 of this Act; and*
 - (20) *Reinstatement of lost service credit as provided for by Section 15 of this Act.*
- Section 12. KRS 61.510 is amended to read as follows:
 As used in KRS 61.510 to 61.700, unless the context otherwise requires:
- (1) "System" means the Kentucky employees retirement system created by KRS 61.510 to 61.700;
 - (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
 - (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.700, the members, officers and employees of the general assembly shall be deemed to be a department;
 - (4) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;
 - (5) "Employee" means the members, officers and employees of the general assembly and every regular full-time appointed or elective officer or employee of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.700;
 - (6) "Employer" means a department or any authority of such department having the power to appoint or select an employee in such department, including the senate and the house of representatives;
 - (7) "State" means the commonwealth of Kentucky;
 - (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
 - (9) "Service" means the total of current service and prior service as defined herein;
 - (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, (except that for members, officers and employees of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid *and employee contributions deducted except as otherwise provided in Section 15(7) and KRS 61.555(1), and [.]* [E]ach member, officer and employee of the general assembly shall be credited with a month of *current* service for each month he occupies such position during a legislative biennium *subsequent to January 1, 1960;*
 - (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employees of the general assembly this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employee of the general assembly shall be credited with a month of *prior* service for each month he occupied such position during a legislative biennium *prior to January 1, 1960;*
 - (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
 - (13) "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer. The creditable compensation of members, officers and employees of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;
 - (14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one or more additional fiscal years shall be used;
 - (15) "*Final rate of pay*" means the actual rate upon which earnings of an employee were calculated during the twelve (12) months period immediately preceeding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; 1,950 hours, 260 days, 52 weeks, 12 months, one year;
 - (16) [(15)] "Retirement allowance" means the retirement payments to which a member is entitled;
 - (17) [(16)] "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board *except in cases of disability retirement the beneficiary options shall be computed by adding ten (10) years to the age of the member;*

(18) [(17)] "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.510 to 61.700;

(19) [(18)] "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) [(19)] "Officers and employees of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums; and

(21) [(20)] "Regular full-time positions" as used in KRS 61.510 (5) shall mean all positions as set forth in KRS Chapter 18 as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18 of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty.

Section 13. KRS 61.520 is amended to read as follows:

(1) Each department shall participate in the system when the governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be fixed by the governor in his executive order.

(2)(a) Notwithstanding the provisions of subsection (1) of this section the governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972 to include its non-instructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership. [In this event the board shall by definition distinguish between an instructional and non-instructional employee.]

(b) *All employees of an agency participating under authority of Section 13(2)(a) shall be considered non-instructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky teachers' retirement system.*

(3) Once a department participates it shall thereafter continue to participate.

Section 14. KRS 61.526 is amended to read as follows:

(1) Each employee on becoming a member of the Kentucky employees retirement system shall file with the board, in such form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the board may require.

(2) In the event that the records of the department of personnel or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any such unsubstantiated service.

(3) At the request of the member or the beneficiary if the member is deceased, the *general manager* [executive secretary] shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.

Section 15. KRS 61.552 is amended to read as follows:

(1) Any employee of a department participating in the *Kentucky employees retirement system*, or any employee of an agency participating in the *county employees retirement system*, or any member of the *state police retirement system*, or any active contributing member of the *teachers' retirement system* [system] whose employment has previously been terminated [without prejudice] and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system *from which he received the refund* the amount refunded with interest at a rate determined by the board of the respective retirement system.

(2) *Any employee of a county participating in the county employees retirement system or any former county employee who is an employee of a participating department in the Kentucky employees retirement system who did not elect membership in the county employees retirement system as provided in subsection (2) of KRS 78.540 may obtain credit for prior service and for current service by paying to the county employees retirement system the contribution he would have paid had he elected membership based on the assumption that his*

employer did not elect the alternate participation plan, with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member. [Any member of the county employees retirement system who desires to exercise reciprocal rights as provided in KRS 61.680 and is a former member of the system whose employment has previously been terminated without prejudice and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system the amount refunded with interest at a rate determined by the board.]

(3) *[Effective July 1, 1962, and thereafter,] [a]Any employee of a participating department or any former state employee who is an employee of a county participating in the county employees retirement system who did not elect membership in the Kentucky employees retirement system as provided in subsection (2) of KRS 61.525 may obtain credit for prior service and for current service by paying to the system the contribution he would have paid had he elected membership with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member.*

(4) *[Effective July 1, 1962, and thereafter, an] An employee of a participating department which did not participate in the system effective July 1, 1956, or any former state employee who is an employee of a county participating in the county employees retirement system may obtain credit for current service between July 1, 1956, and the effective date of participation of his department by paying to the system the contribution he would have paid had his department participated on July 1, 1956, with interest at the rate determined by the board and an additional sum equal to 50 per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member.*

(5) *An employee of a county participating in the county employees retirement system which did not participate in the system effective July 1, 1958, or any former county employee who is an employee of a department participating in the Kentucky employees retirement system may obtain credit for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employees retirement system the contribution he would have paid had his county participated on July 1, 1958, with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member. [Effective July 1, 1966, and thereafter, any member of the county employees retirement system who desires to exercise reciprocal rights as provided in KRS 61.680 and is a former employee of a participating department who did not elect membership as provided in subsection (2) of KRS 61.525 or any former employee of a participating department which did not participate in the system effective July 1, 1956, may obtain credit for prior service and for current service by paying to the system the contribution he would have paid had he elected membership or had his department participated on July 1, 1956, with interest at the rate determined by the board and an additional sum equal to fifty per cent (50%) of this amount. The payment of the fifty per cent (50%) sum shall be considered as accumulated contributions of the individual member.]*

(6) *Service credit obtained under subsections (1) to (5) of this section shall be disallowed if the [a] member does not obtain six (6) months additional current service credit in either the Kentucky employees retirement system, county employees retirement system, state police retirement system, or teachers' retirement system, after the date such rights under this section have been exercised.*

(7)(a) *Effective July 1, 1973, any county participating in the county employees retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employees of the county who were employees on the participation date of the county and elected coverage under KRS 78.540(2).*

(b) *Effective July 1, 1973, any department participating in the Kentucky employees retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2).*

(c) *Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be 10 years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a 10 year period.*

(d) *If a county or department elects the provisions of this subsection any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsections (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640.*

(e) *Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.*

Section 16. KRS 61.559 is amended to read as follows:

(1) The minimum service credit for a member who earns a month of service credit in the month he becomes 65 years of age or in some month thereafter, shall be forty-eight (48) months, at least twelve (12) of which are current service.

(2) The minimum service credit for a member who does not earn a month of service credit in the month he becomes 65 years of age or in some month thereafter, shall be one hundred and eighty (180) months at least twelve (12) of which are current service *unless the member is a retired member of the state police retirement system in which case the minimum service shall be forty-eight (48) months at least twelve (12) of which are current service.* Notwithstanding the provisions of this subsection, the minimum of one hundred and eighty (180) months shall be decreased by one (1) month for each month that the member's current service exceeds twelve.

Section 17. KRS 61.565 is amended to read as follows:

(1) Each employer *participating in the state police retirement system as provided for in KRS 16.505 to 16.552, and each employer participating in the county employees retirement system as provided for in KRS 78.510 to 78.990 and each employer participating in the Kentucky employees retirement system as provided for in KRS 61.510 to 61.650* shall contribute annually to the respective retirement system an amount equal to the per cent as computed under subsection (2) of this section of the creditable compensation of its employees, to be known as the "normal contributions," and an additional amount equal to *one [six] per cent (1%) [(6%)]* of unfunded past service liabilities, *plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board* to be known as the "past service contribution."

(2) The normal contribution rate shall be determined by the entry age normal cost funding method [with respect to normal, early and delayed retirement benefits and as a unit credit method for all other benefits]. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1[,] of a new biennium.

(4) The board shall advise each employer prior to the beginning of each biennium of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the [biennial] budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section *and a copy of such valuation shall be filed with the Legislative Research Commission within 10 days of receipt thereof.*

Section 18. KRS 61.590 is amended to read as follows:

(1) Any member with the minimum service credit prescribed in KRS 61.559 may retire on or after his fifty-fifth birthday upon written notification to the board.

(2) A member *or beneficiary* eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.990 and 78.510 to 78.990 *and 16.505 to 16.552* shall file with the board on the form prescribed by the board, notification of retirement, giving his name, address, social security number, last day of employment and such other information as the board may require.

(3) Within ten (10) days of the receipt of the notification of retirement form, the board shall cause to be prepared an estimate of the amounts the member *or beneficiary* may expect to receive under the various plans available to the member *or beneficiary*. This information shall be recorded on a form entitled, estimated retirement allowance, and forwarded to the member *or beneficiary*.

(4) The member *or beneficiary* shall return the form entitled, estimated retirement allowance, to the retirement office after he has checked the plan of his choice, signed the document and had his signature witnessed. *A [The] member or beneficiary* may not select a different plan after the first retirement allowance payment has been drawn by the state treasurer.

(5) A member choosing to retire under the basic plan shall file his birth certificate or other acceptable evidence of date of birth. In the event a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be filed.

(6) The effective date of normal retirement and disability retirement shall be the first month following the month in which employment was terminated. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed with the retirement office, provided employment has been terminated.

(7) *The effective date of a deferred retirement option as provided under Section 4(8) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.*

Section 19. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, active fire suppression or prevention, or other positions, including but not limited to pilots of the department of aeronautics, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employees deemed by the employer, to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department indicating that the required employer contributions have been provided for in the budget of the employing department. The board shall determine whether the names certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section;

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven per cent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of Section 17. [KRS 16.551;]

(4) Except as provided in subsection (5) of this section, the retirement allowance of a member eligible to retire with service credit earned while serving in a hazardous position shall be based on the benefits of the state police retirement system as indicated below for the period during which contributions were paid as provided under subsection (3) of this section, and the remainder of his benefit shall be based on the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990. Provisions of the state police retirement system are:

(a) Normal retirement as provided in KRS 16.576 (2) to (8).

(b) Disability retirement as provided in KRS 16.580 to 16.596 *except that in determining benefits under Section 7(2) service credit shall be added to the employee's total service beginning with his last day of paid employment and continuing to his normal retirement date rather than his 55th birthday.*

(c) Death in line of duty as provided in KRS 16.601.

(d) Death before retirement as provided in KRS 16.578.

(e) *Early retirement as provided in KRS 16.577, however, the member must have attained age fifty-five (55).*

(5) Notwithstanding the provisions of subsection (4) of this section the normal retirement age for a member occupying a hazardous position shall be based on the number of months that the member has paid contributions in accordance with subsection (3) of this section and employer contributions have been paid on his behalf as provided under subsection (3) of this section.

The following schedule shall be used to determine a member's normal retirement date as provided in this subsection:

Number of months' contributions

paid as a hazardous position: Normal retirement age:

12	64
24	63
36	62
48	61
60	60

(6) The maximum employment age for a person hired in a hazardous position shall be as follows:

Effective Date	Maximum Employment Age
July 1, 1972	38
July 1, 1973	37
July 1, 1974	36
July 1, 1975	35

(7) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department and made available to the board upon request.

(8) In the event of any doubt regarding the benefits of a hazardous position under this section, the board shall determine whether the benefits under KRS 61.510 to 61.700 or 78.510 to 78.990 or 16.505 to 16.645 are applicable.

Section 20. KRS 61.600 is amended to read as follows:

An employee with *sixty months of service, twelve months of which must be current service*, [the minimum service credit prescribed in KRS 61.559,] may retire at any time before his normal retirement date on account of disability upon written notification to the board. Upon the examination by a licensed physician or

physicians it must be determined that the employee, since his last day of paid employment, has been mentally or physically incapacitated to engage in any occupation for remuneration or profit and that such disability did not pre-exist at the time of initial employment or re-employment (*except in case where a disabled recipient has returned to work on a trial basis*) and is a result of bodily injury, mental illness or disease and that such incapacity is deemed to be permanent.

Section 21. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability *except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed 25 years, except when the employee has accumulated total service of 25 or more years his total service shall be used in computing disability benefits.* [The annual retirement allowance for disability retirement shall not be less than \$512.]

Section 22. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated for a period of thirty (30) consecutive days or if the member has remained in a layoff, seasonal, emergency, temporary or part-time position for a period of *thirty (30) [ninety (90)]* consecutive days, he, if living, if not, his designated beneficiary, shall be paid, on demand, but not later than *thirty (30) [ninety (90)]* days thereafter, the amount of his accumulated contributions reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due under any of the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990.

Section 23. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990. The amount of any such optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Option (a). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his *beneficiary* [spouse, or a dependent receiving at least one-half (1/2) of his support from the member,] during the lifetime of such person.

(3) Option (b). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his *beneficiary* [spouse or a dependent receiving at least one-half (1/2) of his support from the member,] during the lifetime of such person.

(4) *In addition to the optional forms of annuities permitted under this section the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.*

Section 24. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.700 and 78.510 to 78.990 and who is re-employed as an employee by a participating agency, shall have his retirement payments suspended for the duration of such re-employment. Monthly payments shall not be suspended for a retired member who is re-employed in a seasonal, emergency, temporary, [or] part-time, or full-time position if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of re-employment during the calendar year. The payments shall be suspended at the beginning of the month in which the re-employment occurs.

(2) Employer and employee contributions shall [not] be made *as provided in KRS 61.510 to 61.700 and 78.510 to 78.990* on the compensation paid during such re-employment *except where monthly payments were not suspended as provided in subsection (1) of this section* and the member shall [not] be credited with additional service credit.

(3) In the month following the termination of re-employment, retirement allowance payments shall be reinstated under the plan the member was receiving payments prior to re-employment.

(4)(a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, provided he *does not receive more* [receives less] than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of re-employment.

(b) *In the event the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of re-employment, if any, shall be refunded to the*

retired employee and no service credit shall be earned for the period of re-employment.

(c) In the event the retired member is not eligible to be paid suspended payments for his period of re-employment as an employee, his retirement allowance shall be re-computed under the plan the member was receiving payments prior to re-employment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of re-employment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined.

2. If the retired member initially retired on or subsequent to his normal retirement date his retirement allowance shall be recomputed by using the formula in Subsection (1) of KRS 61.595 if he retired under the Kentucky employees retirement system or the formula in Subsection (1) of KRS 78.680 if he retired under the county employees retirement system.

3. If the retired member initially retired prior to his normal retirement date his retirement allowance shall be recomputed using the formula in Subsection (2) of KRS 61.595 if the retired member retired under the Kentucky employees retirement system or the formula in Subsection (1) of KRS 78.680 if he retired from the county employees retirement system, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during re-employment.

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of re-employment in lieu of payments under paragraph 3 provided, however, the member shall not receive less in benefits as a result of the recomputation than he was receiving prior to re-employment.

5. Any retired member who was re-employed prior to the effective date of this act shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following the effective date of this act.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of re-employment.

(6)(a) "Re-employment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the personnel board under authority of KRS 18.270.

(b) A retired member who has been ordered reinstated by the personnel board under authority of KRS 18.270 and accepts employment by an agency participating in the Kentucky employees retirement system shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

Section 25. KRS 61.640 is amended to read as follows:

(1) If an employee in the active employment of a participating agency or on official leave from such agency, provided such leave has been granted in accordance with the policy of the state department of personnel, with the minimum service credit prescribed in KRS 61.559, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, [who is a dependent receiving at least one-half (1/2) of his support from the deceased member, or who is the spouse of the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635 (2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(2) If a member not in the active employment of a participating agency, nor on official leave from such agency, with the minimum service credit and age prescribed in KRS 61.559 (1) dies before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary, [who is a dependent receiving at least one-half (1/2) of his support from the deceased member, or the spouse of the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had he chosen benefits payable under KRS 61.635 (2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(3) If a member, not in the active employment of a participating agency nor on official leave from such agency with twenty (20) or more years of service credit at least five (5) of which are current service, dies at any time before the first retirement allowance payment has been drawn by the state treasurer and has on file with the board at the time of his death a written designation of a beneficiary [who is a dependent receiving at least one-half (1/2) of his support from the deceased member, or who is the spouse of the deceased member,] then said beneficiary may elect to receive an annual benefit payable monthly commencing in the month following

the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635 (2) or the said beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain.

(4) *An alternative calculation of benefits payable to the beneficiary under subsection (1) or (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the option (b) factor as provided for in Section 23(3) then reduced by fifty per cent (50%), and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined.*

(5) *The highest monthly benefit determined under subsection (1) or (2) or (3) or (4) of this section for a life annuity or for payments for one hundred twenty (120) months certain shall be tendered to the beneficiary.*

Section 26. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected [and who shall serve for terms of four (4) years,] as follows:

[(a) The attorney general, ex officio;]

(a) [(b)] The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18.160 except as provided under subsections (5) and (6) of this section [ex officio];

(b) [(c)] Two (2) [One (1)] trustees, who must be members or retired from the county employees retirement system, elected by the members of the county employees retirement system;

(c) [(d)] One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) [(e)] Two (2) trustees, who must be members or retired from the Kentucky employees retirement system, elected by the members of the Kentucky employees retirement system;

(e) [(f)] Three (3) trustees appointed by the governor of the commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56 provided however, that the board is not authorized to construct a building; and

(f) To reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

[(3) Schedule: Notwithstanding the provisions of subsection (1) of this section, the terms of office of those trustees of the board in office on June 14, 1962, shall continue until their normal expiration date, except that in the case of the director of the division of state police, such date shall be deemed to be March 31, 1963. At the expiration of their terms of office, the commissioner of economic security shall be succeeded by the attorney general, the commissioner of finance by one (1) of the trustees elected by the membership of the Kentucky employees retirement system, which term of office shall be December 11, 1963, and the director of the division of state police by the trustee elected by the membership of the state police retirement system. The term which expired on March 31, 1961, shall be filled by election of the membership of the county employees retirement system, and the second trustee selected by the membership of Kentucky employees retirement system shall fill the term expiring March 31, 1962. The three (3) terms expiring on March 31, 1963, and March 31, 1964, shall be filled by appointment by the governor.]

(3)(a) *Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.*

(b) *The trustee to be elected by the members of the county employees retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after this act becomes law, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.*

(c) *The term of office of the trustee elected by the membership of the Kentucky employees retirement system which now expires on December 10, 1975 shall be succeeded by a term expiring on March 31, 1978.*

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected[, in any regular or special election,] the board shall nominate not less than six (6) months [ninety (90) days] before a term of office of a trustee is due to expire [or in case of

a vacancy in a term of office within ninety (90) days after such vacancy occurs and place on the ballot the names of] at least three (3) constitutionally eligible individuals.

(b) *Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.* [Other nominees may be placed on the ballot by petition of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members which are to elect the trustee. Costs of an election shall be payable from the funds of the system for which the trustee is elected.]

(c) [(b)] Within *three (3) months* [thirty (30) days] of the nominations made in accordance with subsection (a) and (b) of this section, the *general manager* [executive secretary] shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition [of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members which are to elect the trustee]. Provisions shall also be made for write-in votes.

(d) [(c)] The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) [(d)] The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the U.S. Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the *general manager* [executive secretary] to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) [(e)] The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) [(f)] The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. *Cost of an election shall be payable from the funds of the system for which the trustee is elected.*

(5) Any vacancy which may occur in an *appointed position* shall be filled in the same manner which provides for the selection of the particular trustee, *and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor;* however, any [the] vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists[.]. *No trustee may serve in more than one position as trustee on the board and should a trustee be in more than one position as trustee on the board, he is hereby permitted a choice of resigning any position.* [, and no] *No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.*

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of \$45 for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the *general manager* [executive secretary]. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a *general manager* [an executive secretary], and fix his compensation without limitation by the provisions of KRS Chapter 18 and KRS 64.640. The *general manager* [executive secretary] shall be the chief administrative officer of the board;

(b) Appoint such other employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the commissioner of personnel;

(c) Require the *general manager* [executive secretary] and such employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990.

(10) All employees of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, *shall attend each meeting of the board and receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general,* may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. All its proceedings and records shall be open for inspection by the public.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

Section 27. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 61.510 to 61.700 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state[.], *except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders.* Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.700 shall be registered in the name "Kentucky employees retirement system of the commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the *general manager* [executive secretary] of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the commonwealth.

Section 28. KRS 61.665 is amended to read as follows:

(1) The board shall, from time to time, employ one or more physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990 or by the board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under KRS 61.510 to 61.700 and 16.505 to 16.645 and 78.510 to 78.990, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of physicians who have the necessary information to report the employee's physical and mental condition.

(b) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be filed with the board.

(c) The cost of the medical examination shall be paid by the employee. The physician shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office.

(d) The board shall select a medical examiner who shall evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied.

(e) If the medical examiner recommends that the employee be approved for disability retirement, the *general manager* [executive secretary] shall proceed to make retirement payments in accordance with the retirement plan selected by the employee.

(f) If the medical examiner recommends that the employee be denied disability retirement, the *general manager* [executive secretary] shall notify the board and the employee of this recommendation. The employee shall have the opportunity of furnishing additional medical evidence of total and permanent disability and any such additional evidence shall be submitted to the medical examiner.

(g) The medical examiner shall be paid a reasonable amount by the retirement system for each case evaluated.

Section 29. KRS 61.680 is amended to read as follows:

(1) Every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 16.505 to 16.652, 61.510 to 61.700 and 78.510 to 78.990 and to all other provisions thereof.

(2)(a) *Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.990 and 78.510 to 78.990, upon death, disability, or service retirement a member's accounts under the state police retirement system, Kentucky employees retirement system and county employees retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one system. If the member has prior service in more than one system, he*

must obtain at least twelve (12) months current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits. [A member with service credit in the Kentucky employees retirement system who enters the service of a county, political subdivision or instrumentality whereby such person would be eligible for membership in the county employees retirement system may elect to retain membership in the Kentucky employees retirement system. When such an election is made, the agency employing the member shall withhold employee contributions, make employer contributions and pay these contributions to the county employees retirement system. The employee and employer contributions and service credit shall be transferred to the Kentucky employees retirement system.]

(b) The provisions of subsection (2)(a) of this section shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employees retirement system or county employees retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employees retirement system or county employees retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employees retirement system or the county employees retirement system who enters the service of a department, board, agency or instrumentality of the commonwealth whereby such person would be eligible for membership in the teachers' retirement system or the judicial retirement system may elect to retain membership in the system in which he is a member, either the Kentucky employees retirement system or the county employees retirement system. When such an election is made, the agency employing the member shall withhold employee contributions, make employer contributions and remit these contributions to the [Kentucky employees retirement] system in which the member retained his membership.

(4) A person entering the service of an employer [a department] participating in the Kentucky employees' retirement system or the county employees retirement system with service credit in [the county employees' retirement system or] the teachers' retirement system and who desires to retain membership in the teachers' retirement system, [such system] and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employees retirement system or the county employees retirement system.

(5) Effective July 1, 1974 any member of the Kentucky employees retirement system or county employees retirement system who is working in a position covered by one of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers. [Reciprocal rights provided for in this section may be exercised retroactively by a member on or after July 1, 1964.]

Section 30. A new section of KRS Chapter 61 is created to read as follows:

(1) A reinstated employee who has been ordered reinstated by the personnel board under authority of KRS 18.270 and accepts employment by a participating employer shall tender to the retirement board the member contribution he would have paid on the creditable compensation he would have earned as defined under KRS 18.275 had he not been dismissed. The employer shall pay the employer contributions as defined under KRS 18.275 on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member contributions are not paid.

Section 31. A new section of KRS Chapter 61 is created to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652 or 61.510 to 61.990 or 78.510 to 78.990 a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employees' account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(a) Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from social security, even though these payments may not begin for a period of time as required for qualification under the federal social security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workmen's compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workmen's compensation, to arrive at a projected combined monthly benefit.

(b) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay his disability retirement allowance from the retirement system shall be reduced to

an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final monthly rate of pay; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employee's actual total service.

(c) The board is hereby authorized to pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his social security and workmen's compensation benefits until such amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(d) Any increase in social security benefits or workmen's compensation benefits which becomes law (regardless of their effective date) subsequent to the disabled employee's effective retirement date shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.

(e) Any disabled recipient whose potential payments from the system where reduced as provided for in this section shall advise the board if his payments under the federal social security act or workmen's compensation act cease at any time subsequent to his effective retirement date. Upon investigation, should the board determine that such disabled recipient continues to be eligible for disability benefits, the board may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (b) of this section.

Section 32. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.880, unless the context otherwise requires:

- (1) "System" means the county[-]employees['] retirement system;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county or political subdivision or instrumentality *or urban county government* participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;
- (4) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;
- (5) "Employee" means every regular full-time appointed or elective officer or employee of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.990 [78.880];
- (6) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employee to office or employment in such county.
- (7) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (8) "Service" means the total of current service and prior service as defined herein;
- (9) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid *and employee contributions deducted except as otherwise provided in section 15(7), KRS 61.555(1) and Section 33 of this Act*;
- (10) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;
- (11) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (12) "Creditable compensation" means all salary, wages and fees paid to the employee as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;
- (13) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;
- (14) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) months period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;
- (15) [(14)] "Retirement allowance" means the retirement payments to which a member is entitled;

(16) [(15)] "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board *except in case of disability retirement the beneficiary options shall be computed by adding ten (10) years to the age of the member*;

(17) [(16)] "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.990 [78.880];

(18) [(17)] "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(19) [(18)] "Agency reporting official" means the person designated by the participating agency to file reports with the county employees retirement system; [and]

(20) [(19)] "Regular full-time positions" as used in subsection (5) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty[.]; and

(21) "Alternate participation plan" means a new method of participation in the system as provided for by Section 33(3) of this act which shall become effective July 1, 1973.

Section 33. KRS 78.530 is amended to read as follows:

(1) Each county, as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3)(a) *Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.*

(b) *The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be 10 years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a 10 year period except that agreements made before December 31, 1973 which provide for a longer payment period may be honored by the board.*

[(3)] In counties not participating in the system in accordance with subsection (1) of this section, the county fiscal court, upon request of either the clerk of the county court or the sheriff of the county, shall enter an appropriate order authorizing the participation in the system, said order to be duly recorded in the records of the fiscal court. Provided, however, anything in KRS 78.510 to 78.880 to the contrary notwithstanding, the fiscal court shall not be liable for "normal contribution" or "past service liability contribution" with reference to the county court clerk and his employees and deputies and the sheriff and his employees and deputies, and further that the "normal contribution" and "past service liability contribution" shall be considered office expenditures and shall be paid by the county court clerk and by the sheriff respectively.]

(4) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals [established in accordance with KRS 216.010 and 216.080] and any other semi-independent agency. Each such excluded agency *shall be identified in the order authorizing participation and such excluded agency* may participate in the system as a separate agency.

(5) An agency whose participation in the county employees retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the county employees retirement system.

Section 34. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements, as provided for the Kentucky employees retirement system as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, armed forces, as provided for by KRS 61.555;
- (7) Minimum service credit required, as provided for by KRS 61.559;
- (8) Uninvested funds, maximum, as provided for by KRS 61.585;
- (9) Service retirement, conditions, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Disability retirement allowance, cessations, as provided for by KRS 61.620;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans as provided for by KRS 61.635;
- (18) Suspension of retirement payments on re-employment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of Trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, as provided for by KRS 61.690;
- (27) False statements or falsification of records, penalty, as provided for by KRS 61.700;
- (28) Credit for service prior to membership date, as provided for by KRS 61.526;
- (29) Official income of fee officers, as provided for by KRS 61.541;
- (30) Transfer of dormant accounts, as provided for by KRS 61.626;
- (31) Members' account, confidential, as provided for by KRS 61.661;
- (32) Hazardous positions as provided for by KRS 61.592;[.]
- (33) *Maximum disability benefit as provided for by Section 31 of this act;*
- (34) *Consent to employees to deductions and reciprocal arrangement between systems, as provided for by Section 29 of this act;*
- (35) *Employer contributions as provided for by Section 17 of this act; and*
- (36) *Recontributions and delayed contributions as provided for by Section 15 of this act.*

Section 35. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.990 [78.880], and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state *except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders.* Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.990 [78.880] shall be registered in the name "county employees retirement system of the commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and *general manager* [executive secretary] of the board of trustees.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the commonwealth.

Section 36. KRS 16.515, 16.527, 16.551, 16.566, 16.650, 78.607, 78.620 and 78.850 are repealed.

Section 37. Whereas, many members of the three retirement systems covered by this act need the protection of the improved disability and death benefits provided by this act as soon as possible, an emergency is declared to exist, and this act shall take effect upon its passage and approval by the Governor.

The Committee Amendments to **HB 581** are as follows:

Amend printed copy of House Bill 581 page 28, line 12, by inserting the following between the words "system" and "[system]": *"notwithstanding the provisions of KRS 161.470"*

and on page 62, line 14, by inserting the following after "78.990": *"and 161.220 to 161.715"*

and on page 62, line 17, by inserting between the words "system" and "shall" the following: *"and Teachers' Retirement System"*

and on page 63, line 25, insert the following after the word "deceased": *"or, if a member working under a position covered by the Teachers' Retirement System dies and his beneficiary is eligible for death benefits under KRS 161.520, or in the event a member of the Teachers' Retirement System has eight (8) or more years of service and becomes disabled thereby eligible for benefits under KRS 161.661"*

and on page 80, line 4, by inserting after line 4, the following: "Section 37. This Act shall not be construed as repealing any of the provisions of 1974 Senate Bill 23, but shall be held and construed as ancillary and supplemental thereto."

Section 38. A new section of KRS Chapter 161 is created to read as follows:

The provisions of KRS 61.680 are hereby recognized and shall be followed in computing benefits of any member of the Teachers' Retirement System who also has an account with the Kentucky employes retirement system, county employes retirement system or state police retirement system."

by deleting the number "37" and inserting in lieu thereof the number "39"

Amend printed copy of House Bill 581 page 67, line 6, by inserting the following between the words "pay" and "his": *"Or his final compensation, whichever is greater,"*

and, on page 67, line 10, by inserting the following after the word "pay": *"or his final compensation, whichever is greater,"*

Amend printed copy of House Bill 581 page 78, line 13, by striking the line in its entirety and substituting therefor the following: *"61.592 (1) to (3) and (7) to (8); further provided, however, that the normal retirement age, maximum employment age, and retirement allowance of a member serving in a hazardous position shall be determined in the same manner as a member of the State Police retirement system as provided for by KRS 16.505 to 16.645 except the mandatory retirement provision of KRS 16.576 (1) shall not be applicable:"*

HB 603, AN ACT relating to historic preservation.

WHEREAS, Washington, Kentucky in Mason County in the eighteenth century, played a key role in the settlement of Kentucky and the Western Territory, as the northern entrance to the Commonwealth along the buffalo trace, the limestone trail and Smith's Wagon Road; and

WHEREAS, Washington, laid out in 1785 by Arthur Fox and William Wood and established as a town in 1786 by the Virginia legislature was the first county seat of Mason County and believed to be the first town in our country named for George Washington; and

WHEREAS, Washington was home to many great Americans: Simon Kenton, John Chambers, the family of Chief Justice John Marshall, and Albert Sidney Johnson, whose homes are still to be seen in Washington; and

WHEREAS, Harriet Beecher Stowe, after visiting Washington on her first trip to the South, wrote "Uncle Tom's Cabin"; and

WHEREAS, many historic buildings in Washington stand today remarkably well preserved, representative of that era in the development of the Commonwealth and the western expansion of the United States in which Washington made its great contribution to our history.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 171 is created to read as follows:

(1) In order to preserve, augment and engender the historic qualities of Washington, Mason County, Kentucky there is hereby created the Washington, Kentucky Historic Township Commission to devise a plan and undertake the general restoration and development of Washington, Kentucky as a late eighteenth and early nineteenth century frontier town.

(2) The Washington, Kentucky Historic Township Commission, hereinafter referred to as the Commission, shall consist of eleven (11) members to be appointed by the Governor from among the citizens of Washington and Mason County. The Commission shall elect one of its members chairman and one of its members vice-chairman.

Section 2. A new section of KRS Chapter 171 is created to read as follows:

(1) The Commission may employ a director, who shall serve as its secretary and at its pleasure, and other technical assistants as may be necessary to carry out its purposes.

(2) The Commission may contact, lease, accept gifts and bequests of money and acquire real and personal property by gift, purchase, devise or bequests, deemed necessary for the proper development and planning of Washington as a historic town, and may preserve, restore and administer these properties.

Section 3. A new section of KRS Chapter 171 is created to read as follows:

(1) The Commission shall, within two years of the effective date of this Act, submit a written report to the Governor and the General Assembly. The report shall set out, in such detail as may be necessary; the property, historic sites and buildings to be incorporated into the plan; the manner and method by which the property, sites and buildings may be restored, preserved, maintained and operated; the amount of money which will have to be expended for the restoration and maintenance of any property; and the sources from which funds may be derived for these purposes. The Commission may seek what state and federal funds are available to aid in the development of the plan and the actual restoration and preservation of Washington as a historic town.

(2) The submission of the Commission's report, required by subsection (1) of this section, shall not conclude the business for which it is created and the Commission may continue to exist and perform its designated functions until such time as the Governor may terminate its existence. Upon termination of the Commission all real and personal property held by the Commission, remaining after payment of, or provision for payment of, all debts and liabilities of the Commission shall become the property of the Commonwealth of Kentucky for the purposes of the Department of Parks or the property of Old Washington, Incorporated, as determined by the Commission.

HB 650, AN ACT relating to the financing of pollution control facilities for industrial concerns and public utility companies by cities and counties.

WHEREAS, the operations of many industrial concerns and public utility companies produce atmospheric, solid waste and water pollution, such pollution being detrimental to the health and welfare of the citizens of the Commonwealth of Kentucky, and injurious to the natural resources of the Commonwealth, and it is in the public interest that to the maximum extent possible such atmospheric, solid waste and water pollution be controlled, contained, reduced, abated and prevented; and

WHEREAS, cities and counties in Kentucky, pursuant to KRS 103.210 to 103.285 are presently vested with authority to issue tax-exempt bonds for the financing of certain pollution control facilities, such bonds being payable solely and only from revenues received from the leasing of such facilities to industrial concerns, but said cited statutory authority does not presently permit the financing of all pollution control facilities which may legally be financed by tax-exempt bonds pursuant to the provisions of Section 103 of the Internal Revenue Code of 1954, as amended, and does not permit cities and counties to utilize all financing procedures permitted by said code, and in order that pollution by industrial concerns and public utility companies may be controlled, contained, reduced, abated and prevented to the maximum possible extent, it is necessary that alternative procedures be adopted and authorized to enable cities and counties to finance needed pollution control facilities to the full extent authorized by federal law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 103 is created to read as follows:

(1) "Pollution control facilities" means any land, building, structure, machinery, equipment, device, system or other facility functionally related thereto designed for the control, containment, reduction,

prevention or abatement of atmospheric pollutants or contaminants, solid waste, noise, radiation, or water pollution produced by industrial concerns and public utility companies, including, but not by way of limitation, any such facilities used in whole or in part to control, contain, reduce, prevent or abate atmospheric, solid waste, noise, radiation or water pollution by removing, altering, containing, disposing or storing pollutants, contaminants, wastes, whether gaseous, solid or liquid, thermal or radioactive. Said term includes all pollution control facilities whenever constructed, reconstructed, acquired and placed in original use, which may legally be financed by issuance of bonds determined to be tax-exempt pursuant to the provisions of Section 103 of the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder. Pollution control facilities may be constructed as part of, and may include, facilities also designed for the recovery of chemicals or other by-products or to serve other purposes which also contribute to the control of or abatement of atmospheric and water pollution.

(2) It is hereby determined and declared that the acquisition and financing of pollution control facilities for utilization by industrial concerns and public utility companies by the issuance of bonds of cities and counties amortized by payments made by such industrial concerns and public utility companies inures to the public interest, and constitutes the performance of a proper governmental purpose. It is the intent of this section to afford to cities and counties alternative methods of financing pollution control facilities to the end that atmospheric and water pollution in the state may be abated and controlled to the maximum possible extent.

(3) As an alternative to the procedure set forth in KRS 103.210 to 103.285, inclusive, any city or county, for the purpose of financing the acquisition of pollution control facilities for any industrial concern or public utility company, may issue negotiable bonds pursuant to KRS 103.210 to 103.285, inclusive, and either (a) loan the proceeds of the sale of such bonds to an industrial or public utility company to finance the acquisition of such pollution control facilities, (b) sell such pollution control facilities to an industrial concern or public utility company pursuant to agreement, or (c) lease such pollution control facilities from an industrial concern or public utility company and sublease same to such industrial concern or public utility company. In the event of use of such alternative financing procedure, such bonds shall not constitute an indebtedness of such city or county within the meaning of the Constitution of Kentucky, but shall be payable as to principal and interest solely from the revenues derived from payments, repayments, or sublease payments made by such industrial concern or public utility company to such city or county in respect of such loan, sale, or sublease.

(4) In the event that an alternate procedure authorized by this section is to be utilized in the financing of pollution control facilities, (i) the provisions of KRS 103.210 to 103.285, inclusive, shall apply, except that the proceedings and procedures therein described shall contemplate and authorize a transaction in the form of (a) a loan of the proceeds of such bonds by such city or county to an industrial concern or public utility company for the acquisition of such pollution control facilities, (b) a sale of such pollution control facilities to an industrial concern or public utility company pursuant to agreement, or (c) a lease of such pollution control facilities from an industrial concern or public utility company and sublease of same to such industrial concern or public utility company; and (ii) the loan, sale, lease and sublease and any agreement or contract with respect thereto may include such provisions as such city or county shall deem appropriate to effect the securing of the loan made in respect of such pollution control facilities, including, but not by way of limitation, (a) pledge of the general credit of any such industrial concern or public utility company, (b) the making of guaranties to indenture trustees or to such city or county in respect of amortization of such bonds by any such industrial concern or public utility company, (c) the creation of liens or security interests on any property or portion thereof of any such industrial concern or public utility company, either senior or junior to, or ranking equally with, any other lien, security interest or rights of others, including any party or parties to any agreement in connection with such loan and/or their respective security holders and indenture trustees or mortgage trustees, and (d) the pledge of direct senior securities of any such industrial concern or public utility company in respect of such bonds.

(5) In the event any city or county shall finance pollution control facilities pursuant to the express authority contained in this section, title to such pollution control facilities shall not be acquired by such city or county, and the statutory mortgage lien for which provision is made in KRS 103.250 shall not apply to any such pollution control facilities.

(6) Bonds issued by cities and counties pursuant to the authority contained in this section may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue.

SB 112, AN ACT relating to reorganization of state government.

WHEREAS, KRS 12.025 authorizes the Governor, by Executive Order, to establish, abolish, or alter the organization of any agency or statutory administrative department; and

WHEREAS, the Honorable Wendell H. Ford, Governor, Commonwealth of Kentucky, has determined that it would be more efficient, economical and an improvement of administration, to group several related

functions within a Department or a Program Cabinet structure; and

WHEREAS, the Honorable Wendell H. Ford, Governor, Commonwealth of Kentucky, has accomplished such reorganization by the issuance of Executive Orders 72-147, 72-153, 72-300, 72-399, 72-462, 72-523, 72-667, 72-668, 72-869, 72-1167, 72-1168, 72-1169, 73-1, 73-134, 73-164, 73-219, 73-220, 73-221, 73-288, 73-370, 73-425, 73-447, 73-448, 73-485, 73-543, 73-577, 73-578, 73-597, 73-601, 73-777, 73-805, 73-817, 73-818, 73-918, 73-923, 73-966, 73-970, 73-1038, 73-1087, 74-1, 74-12, 74-13, 74-21 and 74-47; and

WHEREAS, as authorized and required by KRS 12.025, the General Assembly must confirm the reorganization as set out in the above mentioned Executive Orders and by this Act does confirm such reorganization;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE I - ADMINISTRATIVE ORGANIZATION: OFFICE OF THE GOVERNOR; CABINETS; DEPARTMENTS; OTHER ADMINISTRATIVE BODIES

Section 1. KRS 11.060 is amended to read as follows:

(1) The heads of the constitutional and statutory administrative departments *and program cabinet secretaries* enumerated in KRS 12.020 shall constitute the governor's *general* cabinet, which shall meet [not less often than once a month at such times and places as it may provide by rule and at other times and places] upon the call of the governor. The governor shall be the chairman and the governor's private secretary shall serve as secretary of the *general* cabinet. The *general* cabinet shall ~~be attached to the office of the governor~~ and shall not constitute a separate department or agency of the state.

(2) The cabinet shall consider such matters involving general administrative policies and procedure, relations between departments and other agencies and desirable measures of cooperation between departments and other agencies, as the governor or any member may place before it; shall advise and consult with the governor at his request on all matters affecting the welfare of the state and relating to the several departments, *program cabinets* and other agencies [and shall exercise the duties and functions imposed by KRS 147.070 to 147.120].

Section 2. A new section of KRS Chapter 11 to be numbered KRS 11.065 is created to read as follows:

(1) The heads of the Executive Department for Finance and Administration, Department for Human Resources, Department of Justice, Department for Natural Resources and Environmental Protection, Department of Transportation, Cabinet for Education and the Arts, Cabinet for Development and the Cabinet for Public Protection and Regulation shall constitute the Governor's Executive Cabinet. The Governor shall be the Chairman and the Commissioner for Finance and Administration shall be Secretary and vice-chairman of the Executive Cabinet.

(2) The Cabinet shall meet not less than twice a month and at other times on call of the Governor or the Secretary of the Cabinet. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate Department or Agency of the State. Members of the Cabinet shall be the major assistants to the Governor in the administration of the State government and shall assist the Governor in the proper operation of his office and perform such other duties as the Governor may require of them.

(3) The Cabinet shall consider such matters involving policies and procedures as the Governor or any member may place before it. The Cabinet shall advise and consult with the Governor on all matters affecting the welfare of the State.

(3) The Cabinet shall consider such matters involving policies and procedures as the Governor or any member may place before it. The Cabinet shall advise and consult with the Governor on all matters affecting the welfare of the State.

Section 3. KRS 11.080 is amended to read as follows:

As used in KRS 11.090 to 11.110, "agency" includes any department, *program Cabinet*, institution, board, commission, office or agency of the state.

Section 4. KRS 12.010 is amended to read as follows:

(1) In this chapter, unless the context requires otherwise:

(a) "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by appropriate executive action as a "department";

(b) "Division" means a major branch of a department established by statute or by administrative action;

(c) "Administrative body" includes authority, board, bureau, interstate compact, commission, committee, conference, council, office and any other form of organization in the executive branch of

government, but does not include "department," *program cabinet* ["agency"] or "division."

(2) "*Program cabinet*" [As used in KRS 12.010 to 12.070, "agency"] means a group of departments, or departments and commissions, or other administrative bodies, designated by statute or appropriate executive action as a "*program cabinet*" [an "agency"].

Section 5. KRS 12.015 is amended to read as follows:

Unless specifically provided otherwise, each administrative body established by statute or the appropriate executive action shall be included for administrative purposes in *an existing* [a] department or *program cabinet* [an agency]. When an administrative body is established and the law establishing it does not specify the department or *program cabinet* [agency] within which the body is to be included, the governor shall assign the body to an existing department or *program cabinet* [agency].

Section 6. KRS 12.020 is hereby repealed, amended and reenacted to read as follows:

Departments, Program Cabinets (and their Departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the Department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers.

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Board of Elections.
4. Department of Law.
 - (a) Consumers Advisory Council.
5. Department of the Treasury.
6. Department of Agriculture.
 - (a) State Board of Agriculture.
 - (b) Milk Marketing and Antimonopoly Commission.
7. Department of Education.
 - (a) State Board of Education.
 - (b) State Textbook Commission.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Cabinet Departments headed by appointed officers:

1. Executive Department for Finance and Administration.
 - (a) State Property and Buildings Commission.
 - (b) Turnpike Authority of Kentucky.
 - (c) Capital Plaza Authority.
 - (d) Kentucky Housing Corporation.
 - (e) Kentucky Pollution Abatement Authority.
 - (f) Kentucky Health and Geriatric Authority.
 - (g) Kentucky Savings Bond Authority.
 - (h) County Debt Commission.
2. Department of Transportation.
 - (a) Railroad Commission.
 - (b) Motor Vehicle Dealers Board.
3. Department for Natural Resources and Environmental Protection.
 - (a) Environmental Quality Commission.
 - (b) Soil and Water Conservation Commission.
 - (c) Ohio River Sanitation Commission.
4. Department of Justice.
 - (a) Kentucky Crime Commission.
 - (b) Parole Board.
 - (c) Kentucky Law Enforcement Council.
 - (d) Judicial Training Council.
 - (e) Commission on Corrections and Community Service.
 - (f) State Police Personnel Board.
5. Department for Human Resources.
 - (a) Citizens Commission for Human Resources.
 - (b) Advisory Council for Medical Assistance.

- (c) Unemployment Insurance Commission.
- (d) Certificate of Need and Licensure Board.
- (e) Generic Formulary Council.
- Cabinet for Development.
- Department of Agriculture (headed by elected officer).
- 6. Department of Commerce.
- (a) Economic Development Commission.
- (b) Kentucky Industrial Development Finance Authority.
- (c) Kentucky Science and Technology Commission.
- 7. Department of Fish and Wildlife Resources.
- (a) Fish and Wildlife Resources Commission.
- 8. Department of Parks.
- (a) Breaks Interstate Park Commission.
- 9. Kentucky Historical Events Celebration Commission.
- 10. State Fair Board.
- 11. Kentucky Geological Survey.

Cabinet for Education and the Arts.

- 12. Kentucky Arts Commission
- Department of Education (headed by elected officer).
- 13. Kentucky Authority for Educational Television.
- 14. Kentucky Heritage Commission.
- 15. Kentucky Historical Society.
- 16. Department of Library and Archives.
- (a) State Archives and Records Commission.
- (b) State Board for Certification of Librarians.
- 17. Advisory Council for Vocational Education and Manpower Development and Training.

Cabinet for Public Protection and Regulation.

- 18. Department for Alcoholic Beverage Control.
- (a) Alcoholic Beverage Control Board.
- 19. Department of Banking and Securities.
- 20. Department of Insurance.
- (a) Custodian of Insurance Securities.
- 21. Department of Labor.
- (a) Workmen's Compensation Board.
- (b) Board of Claims.
- (c) Occupational Safety and Health Standards Board.
- 22. Department of Mines and Minerals.
- 23. Kentucky Registry of Election Finance.
- 24. Public Service Commission.
- 25. Kentucky Quarterhorse and Appaloosa Commission.
- 26. Kentucky State Racing Commission.
- 27. Kentucky Trotting Commission.
- 28. Kentucky Board of Tax Appeals.

III. Other Departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department of Personnel.
- (a) Personnel Board.
- 3. Department of Public Information.
- 4. Department of Revenue.
- 5. Human Rights Commission.
- 6. Council on Public Higher Education.
- 7. Teachers' Retirement System.
- 8. Kentucky Employees' Retirement System.
- 9. Commission on Women.
- 10. Kentucky Tobacco Research Board.

Section 7. A new section of KRS Chapter 12 is created to read as follows:

(1) The following administrative bodies shall be attached to the Office of the Secretary of the Cabinet and shall report directly to the Governor:

- (a) Governor's Council on Agriculture.
- (b) Kentucky Council of Economic Advisers.

- (c) Governor's Judicial Advisory Council.
- (d) Kentucky Energy Council.
- (e) Council on Public Higher Education (The State universities and colleges shall report through the Council on Public Higher Education).

(f) Kentucky Tobacco Research Board.

(2) The heads of the following departments and administrative bodies shall report to the Secretary of the Cabinet:

- (a) Department of Military Affairs.
- (b) Department of Personnel.
- (c) Department of Public Information.
- (d) Department of Revenue.
- (e) Human Rights Commission.
- (f) Teachers' Retirement System.
- (g) Kentucky Employees' Retirement System.
- (h) Commission on Women.

Section 8. KRS 12.080 is amended to read as follows:

The governor, with the approval of his *executive* cabinet, may prescribe such general rules for the conduct of the administrative departments as he deems necessary or expedient to give effect to the provisions of law relating to the administrative organization of state agencies. The head of each department may likewise prescribe such rules as he deems expedient for the proper conduct of the work of the department and for making effective the provisions of law, and not inconsistent therewith or with the general rules prescribed by the governor.

Section 9. KRS 12.100 is amended to read as follows:

In all cases where questions arise between agencies as to their respective functions, or where agencies issue conflicting orders or make conflicting rules, the governor with the advice of the governor's *executive* cabinet shall determine the questions, and action shall be taken in accordance with such determination.

Section 10. KRS 12.130 is amended to read as follows:

The governor shall cause each agency to keep a carefully systematized and well devised plan of filing, bookkeeping and accounting *as prescribed by the Executive Department for Finance and Administration*. [Said system shall be as nearly uniform as practical and shall be as comprehensive as necessary for the efficient administration and business needs of the respective departments. The records of each department shall be so kept that a full and complete report may be readily and economically prepared and furnished to the governor monthly, showing in detail all receipts and disbursements and other pertinent information required by the governor, for the previous month.]

Section 11. KRS 12.200 is amended to read as follows:

The term "department" as used in KRS 12.210 to 12.230 shall be construed to mean and to include each and every executive or administrative department, *program cabinet*, [agency,] division, *office* and independent agency as said terms are defined and set forth in KRS Chapter 12, and shall include any administrative department, *program cabinet*, [agency,] division, *office* and independent agency heretofore or hereafter designated as such by the general assembly.

Section 12. KRS 12.210 is amended to read as follows:

(1) The governor, or any department with the approval of the governor, may employ and fix the term of employment and the compensation to be paid to an attorney or attorneys for legal services to be performed for the governor or for such department. Before approving the employment of an attorney the governor shall consult the attorney general as to whether legal services requested by departments are available in the attorney general's office. The compensation and expenses of any attorney or attorneys employed under the provisions of this section shall be paid out of the appropriations made to such department as other salaries, compensation and expenses are paid, except when the terms of employment provide that the compensation shall be on a contingent basis, and in such event the attorneys may be paid the amount specified out of the moneys recovered by them or out of the general fund. If the governor approves the employment, the terms of employment shall be duly entered by executive order upon the executive journal in the office of the secretary of state.

(2) An attorney may be employed pursuant to the provisions of subsection (1) of this section to render legal services for one or more departments, boards, *program cabinets*, *offices* [agencies] or commissions.

Section 13. KRS 12.050 is amended to read as follows:

Unless otherwise provided by law, deputy heads of departments, *heads of bureaus* and directors of divisions and institutions shall be appointed by the heads of the departments and in statutory departments the appointment of deputy heads of departments, *heads of bureaus* and heads of divisions shall be with the prior written approval of the Governor. *In departments with bureaus, each division head shall report to the head of the bureau to which the division is assigned. In other departments, each* [Each] division head shall report to the head of the department.

Section 14. KRS 12.025(2), 12.030 and 12.035 are hereby repealed.

ARTICLE II - EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

Section 1. A new section of KRS Chapter 42 to be numbered KRS 42.011 is created to read as follows:

There is established a department of state government to be known as the Executive Department for Finance and Administration (hereinafter referred to in KRS Chapter 42 as the "Department"). The Department shall be headed by the Commissioner of the Executive Department for Finance and Administration (hereinafter referred to in KRS Chapter 42 as the "Commissioner") which office is hereby created. The Commissioner shall be appointed by the Governor and shall in addition be ex officio the Secretary of the Cabinet which office is hereby created. The Commissioner shall be bonded as required by KRS 62.160 in the minimum amount of one hundred thousand dollars (\$100,000).

Section 2. A new section of KRS Chapter 42 to be numbered KRS 42.012 is created to read as follows:

The Commissioner shall be the chief financial officer of the State and the adviser of the Governor and the General Assembly in financial matters, and shall at all times protect the financial interests of the State. He shall be responsible to the Governor for the administration of the Department.

Section 3. A new section of KRS Chapter 42 to be numbered KRS 42.013 is created to read as follows:

(1) The Office of the Commissioner of the Executive Department for Finance and Administration which is hereby created shall include a Chief Deputy Commissioner appointed by the Commissioner with the approval of the Governor. The Chief Deputy Commissioner shall be responsible to and have such authority to sign for the Commissioner as the Commissioner designates in writing.

(2) There shall be a General Counsel appointed pursuant to KRS 12.210 attached to the office of the Commissioner to provide legal services for the Department. The Attorney General on request of the Commissioner may designate the General Counsel as an Assistant Attorney General pursuant to KRS 15.105.

(3) The Commissioner may employ and maintain, with the approval of the Department of Personnel, such other supporting staff as he deems necessary to execute the functions, duties, and responsibilities of the Department.

(4) All appointments under this Act to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the Commissioner and shall assist in the development of policy.

Section 4. A new section of KRS Chapter 42 to be numbered KRS 42.014 is created to read as follows:

(1) There is established within the Department the Office for Policy and Management and the Office for Local Government, each of which shall be headed by an Executive Director responsible to the Commissioner and appointed by the Commissioner upon approval of the Governor. Each of the offices shall have the duties and responsibilities assigned to it by Executive Orders 72-1167, 72-1168, 72-1169, 73-425 and 73-918 until changed by the Commissioner.

(2) There is established within the Department a Bureau of Administrative Services, a Bureau of Facilities Management and a Bureau of Computer Services, each of which shall be headed by a Director responsible to the Commissioner and appointed by the Commissioner upon approval of the Governor. Each of the bureaus shall have the duties and responsibilities assigned to it by Executive Orders 73-425 and 73-918 until changed by the Commissioner.

(3) The Commissioner shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the Department into such offices, bureaus, divisions or other units as the Commissioner may deem necessary to perform the functions, powers and duties of the Department, subject to the provisions of KRS Chapter 12.

Section 5. A new section of KRS Chapter 42 to be numbered KRS 42.015 is created to read as follows:

There are hereby transferred to and vested in the Commissioner and the Department all functions, powers and duties, funds, personnel, equipment and supplies existing under present law in the Department of Finance, the Kentucky Program Development Office and the Division of Data Processing of the Department of Transportation (Highways).

Section 6. A new section of KRS Chapter 42 to be numbered KRS 42.016 is created to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Commissioner for administrative purposes and staff services:

- (1) State Planning Committee;
- (2) Kentucky Urban Affairs Council;
- (3) Kentucky Health and Geriatric Authority;
- (4) Turnpike Authority of Kentucky;
- (5) State Property and Buildings Commission;
- (6) Kentucky Housing Corporation;
- (7) Kentucky Pollution Abatement Authority;
- (8) Capital Plaza Authority;
- (9) Kentucky Savings Bond Authority;
- (10) County Debt Commission;
- (11) Spindletop Foundation.

Section 7. KRS 42.064 is amended to read as follows:

The Division of Occupations and Professions is established in the *Bureau of Administrative Services, Executive Department for Finance and Administration* [Department of Finance. The Division is headed by a Director, appointed by the Commissioner of Finance with the approval of the Governor].

Section 8. KRS 42.066 is amended to read as follows:

(1) The function of the division is to provide administrative services to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: The State Board of Accountancy, Kentucky Athletic Commission, the State Board of Examiners and Registration of Architects, the Kentucky Board of Barbering, the Kentucky Board of Hairdressers and Cosmetologists, the State Board of Podiatry, the Kentucky State Board of Chiropractic Examiners, the Kentucky Board of Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Registration for Professional Engineers and Land Surveyors, the Board of Nursing Education and Nurse Registration, the Kentucky Board of Ophthalmic Dispensers, the Kentucky Board of Optometric Examiners, the Kentucky Board of Pharmacy, the State Board of Physical Therapy, the Board of Examiners of Psychologists, the State Real Estate Commission, the Kentucky Board of Veterinary Examiners, [and] the Kentucky Board of Examiners in Watchmaking, *the State Board of Auctioneers, the State Board of Business Schools, the State Board of Examiners and Registration of Landscape Architects, the State Board of Medical Licensure, the State Board of Examiners of Speech Pathology and Audiology, the Kentucky Board of Licensure for Nursing Home Administrators and the Kentucky Board for Licensing Hearing Aid Dealers.*

(2) To the extent that the division does provide administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

Section 9. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act and Executive Orders 72-1167, 72-1168, 72-1169, 73-425 and 73-918 in order that said statutes shall conform to the plan establishing and organizing the Executive Department for Finance and Administration and specifically whenever the following language appears in the presently existing statutes, either expressly, impliedly or by words of reference, the language shall be changed by the Reviser of Statutes to read as follows:

1. "Department of Finance" to "Executive Department for Finance and Administration", and specifically the Reviser of Statutes shall make such changes when such language appears in KRS Chapters 6, 11, 12, 15, 16, 18, 21, 23, 27, 28, 29, 36, 39, 41, 42, 43, 44, 45, 46, 56, 57, 58, 61, 64, 65, 66, 68, 69, 77, 91, 93, 96, 104, 107, 125, 131, 133, 135, 138, 140, 142, 147A, 147B, 148, 149, 152, 153, 154, 156, 157, 164, 168, 171, 176, 177, 180, 183, 186, 189, 196, 197, 198A, 206, 210, 211, 215, 216, 224, 243, 248, 257, 276, 278, 322, 330, 341, 342, 421, 424, 433 and 434.

2. "Commissioner of Finance" or "Commissioner of Department of Finance" to "Commissioner of the Executive Department for Finance and Administration," and specifically the Reviser of Statutes shall make such changes when such language appears in KRS Chapters 6, 8, 11, 12, 14, 16, 18, 21, 25, 28, 40, 41, 42, 43, 44, 45, 56, 57, 58, 61, 62, 64, 66, 69, 107, 127, 148, 149, 150, 152, 154, 156, 158, 164, 171, 176, 196, 198A, 199, 206, 208, 210, 216, 246, 258, 287, 293, 317, 341, 342, 424 and 453.

3. "Director of Purchases", "Director of the Division of Purchases", "Division of Purchases" or "Division" to the "Executive Department for Finance and Administration" in KRS 45.360 to 45.460.

4. The "Administrator" or the "Kentucky Program Development Office" or the "Administrator of the Kentucky Program Development Office" to the "Executive Department for Finance and Administration" wherever such terms appear in KRS Chapter 147A.

5. "Department of Finance" to "Department of Library and Archives" in KRS 171.410 to 171.740.

6. "Commissioner of Finance" to "State Librarian" in KRS 171.410 to 171.740, except in KRS 171.480 in which it will read "Commissioner of the Executive Department for Finance and Administration."

Section 10. KRS 147A.020 is amended to read as follows:

The *Executive Department for Finance and Administration* [administrator] shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to the following programs:

[(1) Economic Development Act;]

[(2) Appalachian Regional Development Act;]

[(1) [(3)] Housing and Urban Development Act (Housing Act of 1954, as amended);

[(2) [(4)] Demonstration Cities and Metropolitan Development Act of 1966 (PL 89-754, Title I, II, VIII, IX);

[(3) [(5)] Land and Water Resources Act (PL 89-80);

[(6) Comprehensive Health Planning Act (PL 89-749).]

Section 11. All existing rules, regulations, acts, determinations and decisions of departments, boards, commissions, and offices transferred pursuant to this Act shall remain in effect until changed as provided by law.

Section 12. Sections 42.020, 42.040, 42.050, 42.055, 42.061, 42.068, 42.180, 147A.010 and 147A.040(1) of the Kentucky Revised Statutes are hereby repealed.

Section 13. This Act confirms the establishment and reorganization of the Executive Department for Finance and Administration effected by the Governor under Executive Orders 72-1167, 72-1168, 72-1179, 73-425, 73-918, 74-47 and related reorganization Executive Orders.

ARTICLE III - DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Section 1. A new section of KRS Chapter 224 is created to read as follows:

There is hereby established a department of state government to be known as the Department for Natural Resources and Environmental Protection (hereinafter referred to in this Chapter as the "Department"). The Department shall be headed by a Secretary for Natural Resources and Environmental Protection (hereinafter referred to in this Chapter as the "Secretary") which office is hereby created as a successor office to the Commissioner of Natural Resources. The Secretary shall be appointed by the Governor and shall be bonded as provided in KRS 62.160 in the minimum amount of ten thousand dollars (\$10,000).

Section 2. A new section of KRS Chapter 224 is created to read as follows:

There is established within the Department a Bureau for Land Resources and a Bureau for Environmental Quality. Each bureau shall be headed by a Commissioner appointed by the Secretary with the approval of the Governor as required by KRS 12.050. The Commissioners shall be directly responsible to the Secretary and shall perform such functions, powers and duties as provided by law and as the Secretary may prescribe.

Section 3. A new section of KRS Chapter 224 is created to read as follows:

There is established within the Department an Office of General Counsel which shall be headed by the General Counsel to be appointed, subject to the provisions of KRS 12.210, by and be directly responsible to the Secretary for departmental legal matters. The Attorney General on request of the Secretary may designate the General Counsel as an Assistant Attorney General pursuant to KRS 15.105.

Section 4. A new section of KRS Chapter 224 is created to read as follows:

The Secretary shall establish the internal organization of the Department not established in this Act and shall divide the Department into such offices or divisions as the Secretary may deem necessary to perform the functions, powers and duties of the Department, subject to the provisions of KRS Chapter 12.

Section 5. A new section of KRS Chapter 224 is created to read as follows:

The Secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the Secretary to perform the functions of the Department. The Secretary shall designate a person to act as Deputy for him in the exercise of his duties in his absence.

Section 6. A new section of KRS Chapter 224 is created to read as follows:

All appointments to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the Secretary and shall assist in the development of policy.

Section 7. A new section of KRS Chapter 224 is created to read as follows:

All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment and all resources or other tangible property and any business or other matter now undertaken or vested in the Department for Environmental Protection and the Department of Natural Resources are hereby transferred and vested in the Department.

Section 8. A new section of KRS Chapter 224 is created to read as follows:

All rules, regulations, acts, agreements, determinations and decisions of the Department of Natural Resources, Department of Environmental Protection and Department of Health (relating to functions transferred under this Act) shall remain in effect within the Department until duly modified or repealed by the Secretary.

Section 9. A new section of KRS Chapter 224 is created to read as follows:

The Secretary may promulgate administrative regulations not inconsistent with the provisions of this Act.

Section 10. A new section of KRS Chapter 224 is created to read as follows:

All corporate bodies and/or instrumentalities of the Commonwealth, advisory committees, commissions, councils, interstate compact or other statutory bodies presently attached to the functions in whole or in part to the Department of Natural Resources or the Department of Environmental Protection shall be attached to the Department for administrative purposes. The Secretary, or his designee, shall serve as member of any authority, commission, board, committee or other entity on which by virtue of law, regulation or order the Commissioner of Natural Resources, Commissioner of Environmental Protection or Commissioner of Health (relating to functions transferred under this Act) is a member by virtue of his office. Any office, or its successor agency, presently designated as Kentucky representative for a federally related program shall continue as such until such designation is modified by the Secretary with the approval of the Governor.

Section 11. A new section of KRS Chapter 224 is created to read as follows:

There are hereby transferred to and vested in the Secretary and Department all functions, powers and duties, funds, personnel, equipment and supplies relating to emission standards for carburetion systems under provisions of KRS 234.321, which said provisions of law have been conferred upon the Department of Health and upon the Commissioner and other officers and offices of the Department of Health.

Section 12. A new section of KRS Chapter 224 is created to read as follows:

There are hereby transferred to and vested in the Commissioner and the Bureau for Health Services all functions, powers and duties, funds, personnel, equipment, and supplies relating to septic tank servicing under the provisions of KRS 224.223 to 224.237, which said provisions of law have been conferred upon the Department of Environmental Protection and upon the Secretary and other officers and offices of the Department of Environmental Protection.

Section 13. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act and Executive Orders 72-1174, 73-1, 73-219, 73-220, 73-221 and 73-1087, in order that said statutes shall conform to the plan establishing and organizing the Department for Natural Resources and Environmental Protection and specifically whenever the following language appears in the presently existing statutes, either expressly or impliedly, or by words of reference, the language shall be changed by the Reviser of Statutes to read as follows:

1. "Department of Natural Resources" to "Department for Natural Resources and Environmental Protection", and specifically the Reviser of Statutes shall make such changes when such language appears in KRS Chapters 146, 149 and 151.

2. "Department of Environmental Protection" to "Department for Natural Resources and Environmental Protection", and specifically the Reviser of Statutes shall make such changes when such language appears in KRS Chapters 109, 224, 235 and 350.

3. "Division" to "Department". "Director" to "Secretary" and "Division of Forestry" to "Department for Natural Resources and Environmental Protection" when such language appears in KRS Chapter 149.

4. "Division" to "Department" and "Director" to "Secretary for Natural Resources and Environmental Protection" when such language appears in KRS Chapter 151.

5. Delete subsection (3) of KRS 151.100 and renumber all following subsections.

6. "Department of Health" to "Department for Natural Resources and Environmental Protection" when such language appears in KRS 234.321.

7. "Division" to "Department" and "Division of Reclamation" to "Department for Natural Resources and Environmental Protection" when such language appears in KRS Chapter 350.

8. "Department of Environmental Protection" to "Bureau for Health Services" in KRS 224.223 to 224.237 and "K.D.E.P." to "K.B.H.S." in KRS 224.230.

9. The Reviser of Statutes shall make any other statutory reference changes necessary to effect the intent of this Act, including the renumbering or relocation of Sections 146.080, 146.090, 146.100 and 146.110 in KRS Chapter 262.

Section 14. Sections 146.010, 146.020, 146.025, 146.050, 146.120, 151.130 and 224.031 of the Kentucky Revised Statutes are hereby repealed.

Section 15. This Act confirms the establishment and reorganization of the Department for Natural Resources and Environmental Protection effected by the Governor under Executive Order 72-1174, 73-1, 73-219, 73-220, 73-221, and 73-1087 and related reorganization Executive Orders.

ARTICLE IV - DEPARTMENT OF TRANSPORTATION

Section 1. KRS Chapter 174 is hereby established and a new section thereof is created to read as follows:

There is established a department of state government to be known as the Department of Transportation (hereinafter referred to in this chapter as the "Department"). There shall be at the head of the Department a Secretary of Transportation (hereinafter referred to in this chapter as the "Secretary") which office is hereby created. The Secretary shall be appointed by the Governor and shall be bonded as required by KRS 62.160 in the minimum amount of fifty thousand dollars (\$50,000).

Section 2. A new section of KRS Chapter 174 is created to read as follows:

There is established within the Department a Bureau of Highways and a Bureau of Vehicle Regulation. These bureaus shall constitute the major organizational units within the Department. Each bureau shall be headed by a Commissioner appointed by the Governor on recommendation of the Secretary. The Commissioner shall perform such functions, powers and duties as provided by law and as the Secretary shall prescribe and shall be directly responsible to the Secretary.

Section 3. A new section of KRS Chapter 174 is created to read as follows:

The Department of Transportation in addition to the bureaus set forth in Section 2 of this Article, shall consist of the following organizational units which are hereby created or reestablished:

(1) Office of the Secretary of Transportation comprised of the Secretary of Transportation, Office of Safety Coordinator, Transportation Planning Committee, Office of Transportation Planning, the aeronautics and airport zoning programs, the budget and audit review functions;

(2) Executive Office of Staff Services;

(3) Railroad Commission, attached to the Office of the Secretary for administrative purposes;

(4) Office of the General Counsel.

Section 4. A new section of KRS Chapter 174 is created to read as follows:

There is established within the Department the Office of General Counsel which shall be headed by the General Counsel who shall be appointed pursuant to KRS 12.210. The General Counsel, as legal counsel for the Department, shall be directly responsible to the Secretary and shall perform such duties as may be assigned by the Secretary.

Section 5. A new section of KRS Chapter 174 is created to read as follows:

The Executive Office of Staff Services shall be headed by an Administrator who shall be appointed by and be directly responsible to the Secretary. The Administrator shall have such authority and responsibility as may be delegated by the Secretary. The Secretary pursuant to the provisions of KRS Chapter 12 shall divide the office into such divisions as he may deem necessary to perform the duties and functions of the office.

Section 6. A new section of KRS Chapter 174 is created to read as follows:

The Secretary shall establish the internal organization of the Department not established in this Act and shall divide the Department into such offices or divisions as the Secretary may deem necessary to perform the functions, powers and duties of the Department, subject to the provisions of KRS Chapter 12.

Section 7. A new section of KRS Chapter 174 is created to read as follows:

The Secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the Secretary to perform the functions of the Department. The Secretary shall designate a person to act as Deputy for him in the exercise of his duties in his absence.

Section 8. A new section of KRS Chapter 174 is created to read as follows:

All appointments to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the Secretary and shall assist in the development of policy.

Section 9. A new section of KRS Chapter 174 is created to read as follows:

There are hereby transferred to and vested in the Secretary and Department all functions, powers and duties, funds, personnel, equipment and supplies existing under present law in the Department of Highways, Department of Motor Transportation, Department of Aeronautics, and under Commissioners and other officers and offices of said Departments of Highways, Motor Transportation and Aeronautics.

Section 10. A new section of KRS Chapter 174 is created to read as follows:

There are hereby transferred to and vested in the Secretary and Department all functions, powers, duties, funds, personnel, equipment and supplies relating to operators licenses under provisions of KRS Chapter 186, boats and boating provisions of KRS Chapter 235, financial responsibility provisions of KRS Chapter 189, Traffic Safety Coordinating Committee under provisions of KRS Chapter 17, and motor vehicle inspection under provisions of KRS Chapter 189, which said provisions of law have been conferred upon the Department of Public Safety and under the Commissioner and other officers and offices of said Department of Public Safety. The examination of applicants under KRS 186.480 shall be retained by the

Bureau of State Police.

Section 11. A new section of KRS Chapter 174 is created to read as follows:

There are hereby transferred to and vested in the Secretary and Department all functions, powers, duties, funds, personnel, equipment and supplies relating to motor vehicle license under the provisions of KRS Chapter 186, operator license under provisions of KRS Chapter 186 and boating fees under provisions of KRS Chapter 235, which said provisions of law have been conferred upon the Department of Revenue and under the Commissioner and other officers and offices of said Department of Revenue.

Section 12. A new section of KRS Chapter 174 is created to read as follows:

The Department shall:

- (a) Coordinate all efforts of the state's various departments and agencies to promote traffic safety and make recommendations regarding the prevention of unnecessary duplications of these efforts, and;
- (b) Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education in all forms, and;
- (c) Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.

Section 13. A new section of KRS Chapter 174 is created to read as follows:

All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment, any and all resources or other tangible personal property and any business or other matter undertaken or now vested in the Department of Highways, Department of Motor Transportation, Department of Aeronautics, Department of Public Safety, Department of Revenue, relating to functions transferred under this Act, are hereby transferred and vested in the Department.

Section 14. A new section of KRS Chapter 174 is created to read as follows:

Except as otherwise provided in this Act, all rules, regulations, acts, agreements, determinations and decisions of the Department of Public Safety, Department of Highways, Department of Motor Transportation, Department of Aeronautics, and Department of Revenue, shall remain in effect within the Department until duly modified or repealed by the Secretary.

Section 15. A new section of KRS Chapter 174 is created to read as follows:

The Secretary may promulgate administrative regulations not inconsistent with the provisions of this Act.

Section 16. A new section of KRS Chapter 174 is created to read as follows:

All corporate bodies and/or instrumentalities of the Commonwealth, advisory committees, commissions, councils, interstate compact or other statutory bodies presently attached to the functions in whole or in part of the Departments of Public Safety, Aeronautics, Highways, Motor Transportation and Revenue transferred to the Department of Transportation under this Act shall be attached to the Department of Transportation for administrative support services. The Secretary of Transportation, or his designee, shall serve as member of any authority, commission, board, committee or other entity on which by virtue of law, regulation or order the Commissioner of Public Safety, Commissioner of Highways, Commissioner of Motor Transportation, Commissioner of Aeronautics, Commissioner of Revenue is a member by virtue of his office. Any office, or its successor agency, presently designated as Kentucky representative for a federally related program shall continue as such until such designation is modified by the Secretary with the approval of the Governor.

Section 17. Section 176.020 of the Kentucky Revised Statutes is amended to read as follows:

(1) [The Department of Highways shall be headed by a Commissioner of Highways who shall have sole charge of the administration of the department:] With prior approval of the Governor *and the Secretary* in writing, the Commissioner of Highways shall appoint as State Highway Engineer, a civil engineer who has had at least six years executive engineering experience in the design, supervision and construction of highways. He shall be the technical advisor to the Commissioner of Highways, and under the direction of the Commissioner, he shall supervise all construction and maintenance work of the department and perform such other duties as are assigned to him by the Commissioner.

(2) *With prior approval of the Secretary and pursuant to KRS Chapter 12, the Bureau* [The Department] shall be divided into such divisions as the Commissioner of Highways may deem necessary to perform the duties and functions of the *bureau* [department]. Each division shall perform the duties assigned to it by the Commissioner of Highways and shall be headed by a director who shall act under the direction and supervision of the Commissioner of Highways.

(3) All officers, assistants and employees of the department shall be paid their necessary traveling expenses while engaged in the discharge of their official and departmental duties.]

Section 18. A new section of KRS Chapter 281 to be numbered KRS 281.596 is created to read as follows:

With prior approval of the Secretary and pursuant to KRS Chapter 12, the Bureau of Vehicle Regulation shall be divided into such Divisions as the Commissioner of Vehicle Regulation may deem

necessary to perform the duties and functions of the Bureau. Each Division shall perform the duties assigned to it by the Commissioner of Vehicle Regulation and shall be headed by a Director who shall act under the direction and supervision of the Commissioner of Vehicle Regulation.

Section 19. Section 15.105 of the Kentucky Revised Statutes is amended to read as follows:

(1) The Attorney General, with the approval of the *head* [Commissioner] of the department or the commission involved shall appoint an Assistant Attorney General for the Department of *Transportation* [Highways], for the Public Service Commission, for the Department of Revenue, and for the Railroad Commission.

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Court of Appeals of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective department or commission to which they are assigned.

Section 20. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act and Executive Orders 73-288, 73-543 in order that said statutes shall conform to the plan establishing and organizing the Department of Transportation and specifically whenever the following language appears in the presently existing statutes, either expressly, impliedly or by words of reference, the language shall be changed by the Reviser of Statutes to read as follows:

(1) "Department of Highways" to "Bureau of Highways", except when the intent of this Act requires otherwise and specifically the Reviser of Statutes shall make such change when such language appears in KRS Chapters 16, 17, 44, 45, 56, 76, 96, 96A, 100, 106, 107, 149, 150, 151, 168, 175, 175A, 176, 177, 178, 179, 180, 181, 183, 189, 249, 277, 280, 322, 416, 431.

(2) "Department of Motor Transportation" to "Bureau of Vehicle Regulation" and specifically the Reviser of Statutes shall make such change when such language appears in KRS Chapters 96A, 100, 138, 152, 186, 189, 190, 243, 281, 337, and 431.

(3) "Commissioner of Motor Transportation" to "Commissioner of Vehicle Regulation" and specifically the Reviser of Statutes shall make such change when such language appears in KRS Chapters 62, 190, and 281.

(4) "Department of Aeronautics" to "Department of Transportation" and specifically the Reviser of Statutes shall make such change when such language appears in KRS Chapters 12, 61, 152, 183, and 249.

(5) "Division" to "unit" and "director" to "head" when such language appears in KRS 183.820 through 183.850.

(6) "Commissioner of Department of Aeronautics" to "Secretary of the Department of Transportation" and specifically the Reviser of Statutes shall make such change when such language appears in KRS Chapter 183.

(7) "Department of Public Safety" to "Department of Transportation", whenever such language appears in KRS Chapters 186, 187, KRS 189.641 through 189.659, 189.730 and KRS 281.726. "Department of Public Safety" and "Division of Boating" in KRS Chapter 235 to "Department of Transportation".

(8) "Commissioner" or "Commissioner of Department of Public Safety" to "Secretary" or "Secretary of Department of Transportation" when such language appears in KRS Chapters 186, 187, 235, KRS 189.641 through 189.659 and 189.730.

(9) "Department of Revenue" to "Department of Transportation" when such language appears in KRS Chapters 186 and 235 and in KRS 189.455 and 281.726(3)(d).

(10) Any other statutory reference changes necessary to effect the intent of this Act.

Section 21. Sections 17.130, 177.380, 183.021, 235.020, 235.030 and 281.595 of the Kentucky Revised Statutes are hereby repealed.

Section 22. This Act confirms the establishment and reorganization of the Department of Transportation effected by the Governor under Executive Orders 72-288, 73-543 and related reorganization Executive Orders.

ARTICLE V - DEPARTMENT OF JUSTICE

Section 1. KRS Chapter 15A is hereby established and a new section thereof is created to read as follows:

There is hereby established a department of state government to be known as the Department of Justice (hereinafter referred to in this chapter as the "Department"). The Department shall be headed by a Secretary of Justice (hereinafter referred to in this chapter as the "Secretary") who shall have exclusive control and direction over the affairs of the Department. The Secretary shall be appointed by the Governor and shall be bonded as required by KRS 62.160 in the minimum amount of fifty thousand dollars (\$50,000).

Section 2. A new section of KRS Chapter 15A is created to read as follows:

There is established within the Department a Bureau of State Police, a Bureau of Corrections and a Bureau of Training. Each Bureau shall be headed by a Commissioner appointed by the Secretary with the approval of the Governor as required by KRS 12.050. The Commissioners shall be directly responsible to the Secretary and shall perform such functions, powers and duties as provided by law and as the Secretary may prescribe.

Section 3. A new section of KRS Chapter 15A is created to read as follows:

The Department of Justice, in addition to the bureaus set forth in Section 2 of this Article, shall consist of the following organizational units which are hereby created or reestablished:

(1) Office of Secretary of Justice comprised of the Secretary of Justice and Kentucky Crime Commission.

(2) Executive Office of Staff Services.

(3) Office of Public Defender, attached to the Office of the Secretary for administrative purposes.

(4) Office of the General Counsel.

Section 4. KRS 31.020 is amended to read as follows:

(1) The Office of Public Defender shall consist of the Public Defender, Deputy Public Defender, such assistant public defenders as the Public Defender shall deem necessary, and such secretarial and other personnel as the Public Defender shall deem necessary.

(2) The Public Defender shall be *appointed by the Secretary of Justice with the prior approval of the Governor after the Secretary has received recommendations for appointment from the Kentucky Bar Association. The Public Defender shall be directly responsible to the Secretary.* [chosen by the Governor from a list of names of five (5) attorneys submitted to the Governor by the Kentucky Bar Association. Should none of the persons on the list be suitable to the Governor he may call for a new list which shall be provided by the Kentucky Bar Association.] The Public Defender shall be compensated at a rate not greater than \$27,000 per year, and shall serve a term of four (4) years, unless removed by the Governor.

(3) The Deputy Public Defender shall be an attorney and shall be appointed by the Public Defender and shall serve at his pleasure. He shall be compensated at a rate not greater than \$17,000 per year.

(4) The Assistant Public Defenders shall be attorneys, shall be appointed by the Public Defender, shall be under civil service, and shall be compensated at a rate not greater than \$16,500 per year.

(5) Secretarial, clerical, and other personnel shall be appointed by the Public Defender, shall be under civil service, and shall be compensated at appropriate rates determined by the Public Defender.

Section 5. A new section of KRS Chapter 15A is created to read as follows:

(1) The Kentucky Crime Commission shall advise and recommend to the Secretary policies and direction for departmental long-range planning regarding all elements of the criminal justice system and shall exercise supervisory authority with respect to federal and state grants as required by federal or state law.

(2) Total membership of the Kentucky Crime Commission and the appointment of members thereto shall be determined and made by the Governor. The Secretary of Justice shall serve ex officio as Chairman of the Commission. Members of the Commission shall serve without compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

Section 6. A new section of KRS Chapter 15A is created to read as follows:

The General Counsel subject to the provisions of KRS 12.210 shall be appointed by and be directly responsible to the Secretary for departmental legal matters. The Attorney General on request of the Secretary may designate the General Counsel as an Assistant Attorney General pursuant to KRS 15.105.

Section 7. A new section of KRS Chapter 15A is created to read as follows:

The Executive Office of Staff Services shall be headed by an Administrator who shall be appointed by and be directly responsible to the Secretary. The Administrator shall have such authority and responsibility as may be delegated by the Secretary.

Section 8. A new section of KRS Chapter 15A is created to read as follows:

The Bureau of Training shall establish, supervise and coordinate training programs and schools for law enforcement personnel, correction personnel, court personnel and any other justice or non-law enforcement related personnel as prescribed by the Secretary.

Section 9. A new section of KRS Chapter 15A is created to read as follows:

The Parole Board and the Commission on Corrections and Community Services shall be attached to the Office of the Commissioner, Bureau of Corrections for administrative purposes. The Kentucky Law Enforcement Council shall be attached to the Office of the Commissioner, Bureau of Training for administrative purposes. The Judicial Council created by KRS 22.050 shall serve as the Judicial Training Council to advise the Commissioner, Bureau of Training on appropriate judicial training programs and evaluation of any such training programs in which it participates. The Judicial Training Council may prescribe standards for such judicial training programs, including standards for facilities, faculty, curricula and periods of attendance relating thereto. The Commissioner, Bureau of Training shall consult with the Judicial Training Council on the subject of and the means by which to accomplish each judicial training

program prior to its commencement. The Commission on Corrections and Community Services shall advise the Commissioner, Bureau of Training on appropriate correctional training programs and evaluation thereof.

Section 10. A new section of KRS Chapter 15A is created to read as follows:

The Secretary shall establish the internal organization of the Department not established in this Act and shall organize the Department into such organizational units as the Secretary deems necessary to perform the functions, powers and duties of the Department, subject to the provisions of KRS Chapter 12.

Section 11. A new section of KRS Chapter 15A is created to read as follows:

The Secretary shall have any and all necessary power and authority; subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the Secretary to perform the functions of the Department. The Secretary shall designate a person to act as Deputy for him in the exercise of his duties in his absence.

Section 12. A new section of KRS Chapter 15A is created to read as follows:

All appointments to positions not in the classified service shall be made pursuant to KRS 12.050 and such appointees shall be major assistants to the Secretary and shall assist in the development of policy.

Section 13. A new section of KRS Chapter 15A is created to read as follows:

Except as otherwise provided in this Act, all functions, powers and duties now vested in the Department of Public Safety, Department of Corrections, Kentucky Crime Commission, and Kentucky Law Enforcement Council are hereby transferred and vested in the Department.

Section 14. A new section of KRS Chapter 15A is created to read as follows:

All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment, any and all resources or other tangible property and any business or other matter undertaken or now vested in the Department of Public Safety, Department of Corrections, Kentucky Crime Commission, Kentucky Law Enforcement Council and Office of Public Defender, except as provided in KRS 31.050, are hereby transferred and vested in the Department.

Section 15. A new section of KRS Chapter 15A is created to read as follows:

Except as otherwise provided in this Act, all rules, regulations, acts, agreements, determinations and decisions of the Department of Public Safety, Department of Corrections, Kentucky Law Enforcement Council, Office of Public Defender, and Kentucky Crime Commission, shall remain in effect within the Department until duly modified or repealed by the Secretary.

Section 16. A new section of KRS Chapter 15A is created to read as follows:

Except as otherwise provided by law, the Department shall administer all state programs and all state and federally funded grant programs related to criminal justice.

Section 17. A new section of KRS Chapter 15A is created to read as follows:

The Secretary may promulgate administrative regulations not inconsistent with the provisions of this Act.

Section 18. A new section of KRS Chapter 15A is created to read as follows:

All corporate bodies and/or instrumentalities of the Commonwealth, advisory committees, commissions, councils, interstate compact or other statutory bodies presently attached to the functions in whole or in part of the Departments of Public Safety and Corrections, the Kentucky Crime Commission, Kentucky Law Enforcement Council and Office of Public Defender transferred to the Department of Justice under this Act shall be attached to the Department of Justice for administrative support services. The Secretary of Justice, or his designee, shall serve as member of any authority, commission, board, committee or other entity on which by virtue of law, regulation or order the Commissioner of Public Safety, Commissioner of Corrections, Executive Director of the Crime Commission, Executive Director of the Kentucky Law Enforcement Council or Public Defender is a member by virtue of his office. Any office, or its successor agency, presently designated as Kentucky representative for a federally related program shall continue as such until such designation is modified by the Secretary with the approval of the Governor.

Section 19. A new section of KRS Chapter 15A is created to read as follows:

All reports, documents, surveys, books, records, files, papers or other writing, in the possession of the Department of Public Safety, Department of Corrections, Kentucky Crime Commission, Kentucky Law Enforcement Council, and Office of Public Defender shall remain in the custody of the Department. All confidential records, files or information maintained in accordance with state or federal law or regulations or rules of court shall be retained in accordance with present law, regulation or rules of court until modified or repealed or until the Secretary establishes appropriate regulations to protect these records, files and information.

Section 20. A new section of the Kentucky Revised Statutes is created to read as follows:

There are hereby transferred and vested in the Department of Insurance, Office of the Fire Marshal or its successor agency, all functions, powers and duties, funds, personnel, equipment and supplies now vested in the Commission on Fire Protection Personnel Standards and Education (KRS Chapter 95A), and in the Department of Public Safety as follows:

Fire Department Aid (KRS 17.210 to 17.270); Safety Glazing (KRS 17.410 to 17.440 and 17.990); Boiler Safety (KRS Chapter 236); Public Safety Advisory Committee (KRS 17.065); Dry Cleaning and Dyeing (KRS Chapter 228); Fire Prevention and Protection (KRS 227.200 to 227.410); and Transportation of Hazardous Substances (KRS Chapter 234).

Section 21. A new section of the Kentucky Revised Statutes is created to read as follows:

There are hereby transferred and vested in the Public Service Commission all functions, powers and duties, funds, personnel, equipment and supplies relating to electrical inspection (KRS 227.450 to 227.500) existing in the present law in the Department of Public Safety.

Section 22. KRS 16.010 is amended to read as follows:

As employed in KRS 16.030 to 16.170, unless the context requires otherwise:

- (1) "Department" means the Department of *Justice* [Public Safety];
- (2) "*Secretary*" means the *Secretary of Justice*;
- (3) [(2)] "Commissioner" means the Commissioner of the *Bureau of State Police* [Public Safety];
- (4) [(3)] "Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer;
- (5) [(4)] "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
- (6) [(5)] "Board" means the State Police Personnel Board;
- (7) [(6)] "*Bureau*" ["Division"] means the *Bureau* [Division] of [Kentucky] State Police;
- (8) [(7)] "*Commander*" ["Director"] means the *officer appointed to serve as executive assistant to the Commissioner and head of the Office of Operations* [Director of the Division of Kentucky], the *Bureau of State Police*.

Section 23. KRS 16.030 is amended to read as follows:

(1) The *Commissioner* [director] shall be more than twenty-eight years of age; shall be a citizen of the United States; and shall be selected on the basis of training, experience and qualifications for this position and preferably shall have at least five years['] experience in public or police administration.

(2) The *Commissioner* [director] shall appoint from the [ten highest ranking] officers of the *Bureau* [division] one officer to act as *commander and as* [an] executive assistant. Such appointment may be changed at any time by the *Commissioner* [director] and any other officer substituted.

Section 24. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act, and Executive Orders 73-448, 73-805 and 74-12 in order that said statutes shall conform to the plan establishing and organizing the Department of Justice and specifically whenever the following language appears in the presently existing statutes, either expressly or impliedly, the language shall be changed by the Reviser of Statutes to read as follows:

- (1) "Department of Public Safety" to "Department of Justice", except as otherwise required by this Act.
- (2) "Commissioner" to "Secretary" and "Commissioner of Public Safety" to "Secretary of Justice", except as otherwise required by this Act.
- (3) "Division" to "Bureau" and "Division of Kentucky State Police" to "Bureau of State Police" in KRS Chapter 16.
- (4) "Department" to "Bureau" and "Department of Public Safety" to "Bureau of State Police" in KRS Chapter 16.
- (5) "Commissioner of Public Safety" to "Commissioner of Bureau of State Police" in KRS Chapter 16.
- (6) "Director" to "Commissioner" and "Director of the Division of Kentucky State Police" to "Commissioner of State Police" in KRS Chapter 16.
- (7) "Commissioner" to "Commissioner of Insurance" in KRS 17.250, 17.260 and 17.270.
- (8) "Commissioner" to "Commissioner, Bureau of State Police" in KRS 227.275 and 227.290.
- (9) "Bureau" or "Bureau Chief" to "Unit Commander" and "Department of Public Safety" to "Bureau of State Police" in KRS 17.140 through 17.157.
- (10) "Kentucky Crime Commission" to "Department of Justice" in KRS 15.410 through 15.990.
- (11) "Public Safety" to "Insurance" in KRS 17.065, KRS 227.200 to 227.410 and KRS Chapter 228 and 236.
- (12) "Department" to "Department of Insurance" in KRS 17.410 to 17.440.
- (13) "Department of Public Safety" to "Department of Justice" and "Commissioner" to "Secretary" in KRS Chapter 329.
- (14) "Department" to "Bureau" of Corrections in KRS Chapters 196, 197 and 439.
- (15) "Division of Institutions" and "Division of Probation and Parole" to "Bureau of Corrections" in KRS Chapter 439 and in KRS 196.070 and KRS 196.075.
- (16) "Director" to "Commissioner" and "Division" to "Bureau" in KRS Chapter 439.

- (17) "Department" in KRS 17.310 to 17.340 to "Department of Transportation".
- (18) "Department of Public Safety" to "Bureau of Vehicle Regulation" and "Commissioner of Public Safety" to "Commissioner of Vehicle Regulation" in KRS 189.760 to 189.793 and in KRS 189.025.
- (19) "Director" to "Commissioner" in KRS 196.070, 196.075 and 196.490.
- (20) "Division of Farm Management" to "Bureau of Corrections" and "Division" to "Bureau" in KRS 196.460 and 196.470.

Section 25. KRS 16.050 is amended to read as follows:

(1) The Commissioner shall appoint or promote to the ranks and grades and positions of the *Bureau* [department] such officers [and civilians] as are considered by him to be necessary for the efficient administration of the *Bureau* [department]. *Notwithstanding the provisions of KRS 64.640, s[S]uch officers* [and civilians] shall receive the compensation fixed by the Commissioner *and approved by the Governor*; but the same shall reasonably conform to the standards established by the Department of Personnel.

(2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.

(3) There is created a State Police Personnel Board consisting of the Commissioner and four other members to be appointed by the Governor; two to be appointed from each of the two major political parties.

(4) The initial appointment of members of the board shall be for terms of one, two, three and four years. Thereafter each appointment shall be for a term of four years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.

(5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.

(6) The board shall elect one of its members chairman. It shall meet at such time and place as shall be specified by call of the Commissioner. Three members shall constitute a quorum for the transaction of business. Members of the board other than the Commissioner shall receive compensation of twenty-five dollars and reimbursement of travel expenses for each meeting of the board which they attend.

(7) The board shall make rules and regulations to carry out the purposes herein, which shall include provisions for:

(a) Open competitive examination as to fitness of applicants for employment as officers;

(b) Establishment of eligible lists as a result of such competitive examinations, from which lists, vacancies shall be filled.

(8) The board shall hear appeals from applications for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.

Section 26. KRS 439.310 is amended to read as follows:

The Commissioner, with the approval of the *Secretary and the Governor*, shall appoint a *person charged with the administration of probation and parole laws* [director of the division of probation and parole], who, with the approval of the Commissioner, shall appoint a number of probation, parole and conditional release officers and other employees sufficient to administer the provisions of KRS 439.250 to 439.560; but no employee shall be appointed except in the manner hereinafter provided. The *person charged with the administration of probation and parole laws* [director] shall *have* [be a person having] attained at least a bachelor's degree from an accredited college and in addition thereto shall be a person with training and experience in probation, parole or other related form of welfare work.

Section 27. A new section of the Kentucky Revised Statutes to be numbered KRS 227.489 is created to read as follows:

The Public Service Commission shall require electrical inspectors to be certified. Examinations shall be based on the National Electrical Code incorporated in Article II of the Standards of Safety prescribed by the Public Service Commission. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the National Electrical Code, for a period of five years, may be certified on the basis of knowledge of this subject and experience.

Section 28. Sections 17.010, 17.040, 17.050, 17.060, 17.070, 196.020, 196.025, 196.040, 227.485, 439.250(3) and 439.250(4) of the Kentucky Revised Statutes are hereby repealed.

Section 29. KRS 439.302 is amended to read as follows:

The Commission on Correction and Community Service shall consist of the Commissioner of the *Bureau* [department] of Corrections, the *Deputy Commissioner for Community Services* [director of the division of probation and parole], the director of the Division of Institutions, the chairman of the Parole Board, two (2) circuit judges designated by the Governor, and five (5) public members appointed by the Governor, these to include a psychiatrist, a professional educator, a member who is qualified to express the view of business and industry, a member who is qualified to express the views of organized labor, and a practicing attorney. The judicial and public members shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless sooner removed for cause; all other members shall serve during their terms of office. The Commissioner of Corrections shall act as chairman of the Commission. All members of

the Commission shall serve without compensation, but each member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the Commission. [For administrative and budgetary purposes, the commission is attached to the Department of Corrections, which shall furnish necessary staff services to the commission.]

Section 30. KRS 15.310 is amended to read as follows:

(1) "Council" means the Kentucky Law Enforcement Council established by KRS 15.310 to 15.992 [15.340].

(2) "Bureau" means the Bureau of Training of the Department of Justice.

(3) [(2)] "Law enforcement officer" ["Police officer"] means a member of a lawfully organized police unit or police force of state, county, [or] city or metropolitan government who is responsible for the [prevention and] detection of crime and the enforcement of the general criminal laws of the state, as well as [but does not include elected officer,] sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and private security guards licensed pursuant to state statute [constable, district detective, auxiliary police officer, director of state police, or chief of police].

(4) "Secretary" means the Secretary of the Department of Justice.

Section 31. KRS 15.315 is amended to read as follows:

(1) The Attorney General of Kentucky, the commander [director] of the Kentucky State Police, the dean of the School of Police Administration [the director of the Southern Police Institute] of the University of Louisville, the dean [director] of the School of Law Enforcement of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, and the Kentucky President of the Fraternal Order of Police, shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the Federal Bureau of Investigation shall serve on the council in an advisory capacity only without voting privileges.

(2) Nine (9) members shall be appointed by the Governor for terms of four (4) years[, their initial appointments, however, being three (3) for terms of four (4) years, three (3) for terms of three (3) years, three (3) for terms of two (2) years,] from the following classifications: a city manager or mayor, one (1) Kentucky sheriff, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one of the aforementioned groups or the holder of more than one of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) [(3)] Membership on the council does not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

Section 32. KRS 15.330 is amended to read as follows:

The Council is vested with the following functions and powers:

[(1)] To establish and maintain a police training program and schools with personnel employed or engaged by the council, or through such persons or organizations, public, including federal, or private, as it may deem appropriate, or through a combination of the foregoing;

(1) [(2)] To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.992 [15.340] shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(2) [(3)] To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements [and to train instructors];

(3) [(4)] To prescribe qualifications for attendance and conditions for expulsion from such schools;

(4) [(5)] To approve, to issue and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.992 [15.340];

(5) [(6)] To approve and to issue certificates of approval of law enforcement [police] officers and other persons as having met requirements under KRS 15.310 to 15.992 [15.340];

(6) [(7)] to inspect and evaluate schools at any time and to require of schools, instructors and persons approved or to be approved under the provisions of KRS 15.310 to 15.992 [15.340], any information or documents;

(7) [(8)] To make a continuing study law enforcement [police] training [and] standards and upon request, to furnish information relating to standards for recruitment, employment, promotion, organization,

management and operation of any law enforcement agency in Kentucky;

(8) To conduct continuing research on criminal law and criminal justice subjects related to law enforcement training;

(9) [15] To recommend [make] reasonable rules and regulations to the Secretary to accomplish the purposes of KRS 15.310 to 15.992 [15.340];

[(9) To acquire and dispose of personal and real property, or any interest therein, pursuant to the provisions of KRS Chapters 45 and 56;]

[(10) Notwithstanding any other provision of law, to accept money, real and personal property, and services from any available source, public, including federal, or private, by grant, appropriation, gift, devise, bequest, or any other means; and to enter into agreements with respect thereto;]

[(11) To locate its main office and any branch offices or facilities established hereunder at any available site within the state;]

[(12) To appoint an executive director to serve at its pleasure, who shall perform such duties as the council may assign to him and to fix his compensation; not to exceed the sum of \$17,500 per year;]

[(13) To employ and discharge such other persons as may be necessary or appropriate to carry out the provisions of KRS 15.310 to 15.340;]

[(14) To contract with any person or organization, public, including federal, or private;]

[(10) [(16)] To adopt bylaws for the conduct of its business not otherwise provided for;

[(17) To perform any other act necessary or appropriate to accomplish the purposes of KRS 15.310 to 15.340.]

Section 33. KRS 15.340 is amended to read as follows:

Subject to approval by the Secretary, the Bureau may [The council shall] make its facilities and services available [subject to reasonable rules and regulations of the council,] upon the following terms:

(1) The Bureau may determine to which law enforcement agencies, corrections agencies and court agencies and its officers it will offer training;

[(1) To any officer or employe of the state or a political subdivision thereof having power of a peace officer, provided that his salary and reasonable and necessary travel expenses shall be paid by his employer; unless otherwise provided by the council.]

(2) In determining the law enforcement officers for which it will offer training and in allocating available funds, the Bureau shall give first priority to "police officers" as defined by KRS 15.420(2) and to the Kentucky State Police;

[(2) To such other persons as shall be approved by the council, upon such terms and conditions as it shall establish, provided that the council may require reimbursement for the cost of such training as determined by the council.]

(3) Except for the officers described in subsection (2), the Bureau may determine whether persons to whom it offers training or agencies employing such persons must bear any or all costs of such training.

Section 34. KRS 15.450 is amended to read as follows:

(1) The Secretary or his designated representative [Kentucky crime commission] shall administer the law enforcement foundation program fund pursuant to the provisions of KRS 15.410 to 15.510 and may issue such reasonable rules and regulations as, in his judgment [its discretion], are necessary to carry out his responsibilities under [will facilitate the administration of the fund and further the purposes of] KRS 15.410 to 15.510.

(2) The Secretary or his designated representative [Kentucky crime commission] shall determine which local units of government are eligible to share in the law enforcement foundation program fund and may withhold or terminate payments to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the rules and regulations issued by the Department of Justice [Kentucky crime commission,] under KRS 15.410 to 15.510.

Section 35. KRS 15.990 is amended to read as follows:

Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record, report, or application to the Council, Bureau, or other agency of the Department of Justice [Kentucky crime commission] under KRS 15.410 to 15.510 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not less than thirty (30) days nor more than ninety (90) days, or both.

Section 36. This Act confirms the establishment and reorganization of the Department of Justice effected by the Governor under Executive Orders 73.448, 73.805, 74-12 and related reorganization Executive Orders.

ARTICLE VI - DEPARTMENT FOR HUMAN RESOURCES

Section 1. KRS Chapter 194 is hereby established and a new section thereof is created to read as follows:

The Department for Human Resources (hereinafter referred to in this chapter as the "Department") is hereby created as a new department of state government. The Department shall be the primary state agency responsible for the development and operation of human services, health, income supplement, manpower training, employment and unemployment programs, facilities, and other related services, including all such federal programs in which the state elects to participate. The Department shall promote, supervise, and regulate local, public, and private programs, services, and facilities, which protect, develop and maintain the health, welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth.

Section 2. A new section of KRS Chapter 194 is created to read as follows:

The head of the Department for Human Resources shall be the Secretary for Human Resources (hereinafter referred to in this chapter as the "Secretary") which office is hereby created. The Secretary shall be the chief executive and administrative officer of the Department. The Secretary shall be appointed by the Governor and shall be bonded as required by KRS 62.160 in the minimum amount of twenty thousand dollars (\$20,000).

Section 3. A new section of KRS Chapter 194 is created to read as follows:

The Department for Human Resources shall consist of the following major organizational units which are hereby created:

(1) Office of the Secretary.

(2) The Office for Policy and Budget. The Office for Policy and Budget shall provide the Secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The Office for Policy and Budget shall be headed by an Administrator who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050.

(3) The Office of the Counsel. The Office of the Counsel shall provide legal advice and assistance to all units of the Department in any legal action in which it may be involved. The Office of the Counsel shall employ all attorneys of the Department who serve the Department in the capacity of attorney and shall administer all personal service contracts of the Department for legal services. The Office of the Counsel shall be headed by a General Counsel who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The General Counsel shall be the chief legal advisor to the Secretary and shall be directly responsible to the Secretary. The Attorney General, on the request of the Secretary, may designate the General Counsel as an Assistant Attorney General in accordance with the provisions of KRS 15.105.

(4) The Office of the Ombudsman. The Office of the Ombudsman shall provide a review of citizen complaints on services of the Department for Human Resources when such complaints cannot be resolved through normal administrative remedies. The Office of the Ombudsman shall be headed by an Ombudsman who shall be appointed by the Governor with the advice of the Secretary. The Ombudsman shall be directly responsible to the Secretary.

(4) The Bureau for Administration and Operations. The Bureau for Administration and Operations shall be responsible for providing or directing the provision of all administrative and operational support services within the Department for Human Resources. All fiscal, personnel, facility, and information management functions of the Department shall be vested in the Bureau for Administration and Operations. The Bureau for Administration and Operations shall be headed by a Commissioner for Administration and Operations who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050. The Commissioner for Administration and Operations shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The Commissioner for Administration and Operations shall exercise authority over the Bureau for Administration and Operations under the direction of the Secretary and shall only fulfill such responsibilities as delegated by the Secretary.

(6) The Bureau for Social Insurance. The Bureau for Social Insurance shall develop and operate all programs of the Department that provide income maintenance or income supplementation services and all social insurance benefit programs. The Bureau for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Bureau for Social Insurance shall be headed by a Commissioner for Social Insurance who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050. The Commissioner for Social Insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The Commissioner for the Bureau for Social Insurance shall exercise authority over the Bureau for Social Insurance under the direction of the Secretary and shall only fulfill such responsibilities as delegated by the Secretary.

(7) The Bureau for Health Services. The Bureau for Health Services shall develop and operate all programs of the Department that provide health and mental health services and all programs for the prevention, detection, care, and treatment of physical and mental disability, illness, and disease. The Bureau for Health Services shall be headed by a Commissioner for Health Services who shall be appointed by the

Secretary with the approval of the Governor in accordance with KRS 12.050. The Commissioner for Health Services shall be a person who by licensure in medicine under KRS Chapter 311 and experience and training in administration and management is qualified to perform the duties of this office. The Commissioner for Health Services shall exercise authority over the Bureau for Health Services under the direction of the Secretary and shall only fulfill such responsibilities as delegated by the Secretary.

(8) The Bureau for Social Services. The Bureau for Social Services shall develop and operate all social service programs of the Department. The Bureau for Social Services shall be headed by a Commissioner for Social Services who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050. The Commissioner for Social Services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The Commissioner for the Bureau for Social Services shall exercise authority over the Bureau for Social Services under the direction of the Secretary and shall only fulfill such responsibilities as delegated by the Secretary.

(9) The Bureau for Manpower Services. The Bureau for Manpower Services shall develop and operate all manpower development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the Department. The Bureau for Manpower Services shall be headed by a Commissioner for Manpower Services who shall be appointed by the Secretary with the approval of the Governor in accordance with KRS 12.050. The Commissioner for the Bureau for Manpower Services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The Commissioner for the Bureau for Manpower Services shall exercise authority over the Bureau for Manpower Services under the direction of the Secretary and shall fulfill only such responsibilities as delegated by the Secretary.

Section 4. A new section of KRS Chapter 194 is created to read as follows:

(1) The Secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and bureaus not established in this Article of this Act and shall organize the Department into such offices, divisions and other administrative units as the Secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the Department.

(2) The internal organization of the Department not established in this Article shall remain as established in Executive Orders 73-777, 73-1038 and 74-47 until changed by the Secretary pursuant to KRS Chapter 12.

(3) The Secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create such positions and employ the necessary personnel in such positions to enable the Department to fulfill all functions assigned to it. The Secretary shall designate a person to act as deputy for him in the exercise of his duties in his absence.

(4) All units of the Department enumerated in Executive Orders 73-777, 73-1038 and 74-47 shall be considered major organizational units, and persons appointed to head the units shall be major assistants to the Secretary and shall assist the Secretary in making and carrying out policy. Appointments to said positions shall be made in accordance with the provisions of KRS 12.050.

(5) The Secretary shall with the approval of the Governor elect coverage for employees of the Department under the unemployment insurance law when required by federal law.

Section 5. A new section of KRS Chapter 194 is created to read as follows:

(1) The Secretary shall formulate, promote, establish and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the state of Kentucky all applicable state laws and all rules and regulations necessary in accordance with applicable state laws to protect, develop and maintain the health, welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Department for Human Resources. The Secretary shall adopt, administer and enforce such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with other state and federal agencies for the proper administration of the Department and its programs.

(2) The Secretary shall utilize the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Manpower Services, the Council for Social Services, the Council for Health Services, or the Council for Social Insurance to review and make recommendations on contemplated administrative regulations. The appropriate citizens' council or councils shall be involved in the development of all administrative regulations issued under the authority of the Department. No administrative regulations issued under the authority of the Department shall be filed with the Legislative Research Commission unless issued under the authority of the Secretary and the Secretary shall not delegate this authority. All administrative regulations prepared within the Department shall be attested as to form and legality by the Office of the Counsel.

Section 6. A new section of KRS Chapter 194 is created to read as follows:

(1) The Secretary shall develop and adopt regulations and rules which protect the confidential nature of all records and reports of the Department which directly or indirectly identify a client or patient or former client or patient of the Department for Human Resources and which insure that these records are not disclosed to or by any person except as, and insofar as:

(a) The person identified or his guardian, if any, shall give his consent; or

(b) Disclosure may be permitted under state or federal law.

(2) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in possession of any state agency may be shared with any authorized representative of any other state or local governmental agency, if such agency has a direct, tangible, and legitimate interest in the individual concerned or his immediate family. The Department for Human Resources may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with the Department assuring the confidentiality of all such information and provided that the private or quasi-private agency has a direct, tangible, and legitimate interest in the individual or his immediate family.

Section 7. A new section of KRS Chapter 194 is created to read as follows:

The Department is hereby authorized to utilize and promote available or potential community resources for the delivery of services and shall, when it deems appropriate, contract for services with local, community, and private agencies when such services would not otherwise be available without cost. The Department and local, community and private agencies operating on contract with the Department may charge for services rendered when this would be in accordance with applicable state law.

Section 8. A new section of KRS Chapter 194 is created to read as follows:

The Secretary shall arrange for the development of a cost allocation plan by the Department. The cost allocation shall be developed in accordance with generally recognized accounting practices and shall make provisions for the distribution of operational and administrative costs of all organizational units of the Department to all programs operated by the Department that receive services or are otherwise benefited by the operations of those organizational units.

Section 9. A new section of KRS Chapter 194 is created to read as follows:

The Department shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the Department shall have the following structure:

(1) There is hereby created, within the Department, a Citizens' Commission for Human Resources.

(a) The Citizens' Commission for Human Resources shall advise the Governor, the Secretary for Human Resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The Citizens' Commission for Human Resources shall also advise the Secretary for Human Resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The Citizens' Commission for Human Resources shall be composed of no more than eleven (11) members appointed by the Governor. The members of the Citizens' Commission for Human Resources shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the Department for Human Resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The members of the Citizens' Commission for Human Resources shall elect a chairman. The Secretary for Human Resources shall be a non-voting ex-officio member of, staff director for, and secretary to, the Citizens' Commission for Human Resources. The Citizens' Commission for Human Resources shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the Citizens' Commission for Human Resources or the Secretary for Human Resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the Department for Human Resources a Council for Health Services.

(a) The Council for Health Services shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, the Commissioner for Health Services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Health Services shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide health services.

(b) The Council for Health Services shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Members of the Council for Health Services shall be chosen to broadly represent public interest groups concerned with health services, professionals involved in the delivery of health services, recipients of health services provided by the state, minority groups, and the general public. The Governor shall appoint the chairman of the Council for Health Services who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources and the Commissioner for Health Services shall be non-voting ex-officio members of the Council for Health Services, and the Commissioner for Health Services shall be staff director for, and secretary to the Council for Health Services. The Council for Health Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the Secretary for Human Resources or the Commissioner for Health Services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the Department for Human Resources a Council for Social Insurance.

(a) The Council for Social Insurance shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, the Commissioner for Social Insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Insurance shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The Council for Social Insurance shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Insurance shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The Governor shall appoint the chairman of the Council for Social Insurance, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources and the Commissioner for Social Insurance shall be non-voting ex-officio members of the Council for Social Insurance, and the Commissioner for Social Insurance shall be staff director for and secretary to the Council for Social Insurance. The Council for Social Insurance shall meet at least quarterly and on other occasions as may be necessary, on the call of the Secretary for Human Resources or the Commissioner for Social Insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the Department for Human Resources a Council for Social Services.

(a) The Council for Social Services shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, the Commissioner for Social Services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Social Services shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The Council for Social Services shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the Council for Social Services shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The Governor shall appoint the chairman of the Council for Social Services, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources and the Commissioner for Social Services shall be non-voting ex-officio members of the Council for Social Services, and the Commissioner for Social Services shall be staff director for, and secretary to, the Council for Social Services. The Council for Social Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the Secretary for Human Resources or the Commissioner for Social Services. A majority of the appointed members shall constitute a quorum.

(5) There is hereby created within the Department for Human Resources a Council for Manpower Services.

(a) The Council for Manpower Services shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, the Commissioner for Manpower Services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The Council for Manpower Services shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.

(b) The Council for Manpower Services shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Members of the Council for Manpower Services shall be chosen to broadly represent public interest groups concerned with manpower services, professionals, organized labor, private industry and business, recipients of manpower services provided by the Commonwealth, minority groups, and the general public. The Governor shall appoint the chairman of the Council for Manpower Services, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources and the Commissioner for Manpower Services shall be non-voting ex-officio members of the Council for Manpower Services, and the Commissioner for Manpower Services shall be staff director for, and secretary to the Council for Manpower Services. The Council for Manpower Services shall meet at least quarterly and on other occasions as may be necessary, on the call of the Secretary for Human Resources or the Commissioner for Manpower Services. A majority of the appointed members shall constitute a quorum.

(6) There is hereby created within the Department for Human Resources an Institute for Aging.

(a) The Institute for Aging shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The Institute for Aging shall be primarily concerned with identifying special needs of the aged and advising the Secretary for Human Resources on how the Department may integrate its various programs and services to yield the maximum possible benefit for the aged. The Institute for Aging shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The Institute for Aging shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Aging shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chairman of the Institute for Aging, who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources shall be a non-voting ex-officio member of, staff director for, and secretary to, the Institute for Aging. The Institute for Aging shall meet at least quarterly and on other occasions as may be necessary, on the call of the Secretary for Human Resources. A majority of the appointed members shall constitute a quorum.

(7) There is hereby created within the Department for Human Resources an Institute for Children.

(a) The Institute for Children shall advise the Citizens' Commission for Human Resources, the Secretary for Human Resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The Institute for Children shall be primarily concerned with identifying the special needs of these clientele groups and advising the Secretary on how the Department for Human Resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The Institute for Children shall be utilized by the Department for Human Resources to fulfill Federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The Institute for Children shall be composed of no more than eleven (11) citizen members appointed by the Governor. Members of the Institute for Children shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The Governor shall appoint a chairman of the Institute for Children who by virtue of his appointment shall also serve as one of the voting members of the Citizens' Commission for Human Resources. The Secretary for Human Resources shall be a non-voting ex-officio member of, staff director for, and secretary to, the Institute for Children. The Institute for Children shall meet at least quarterly and on other occasions as may be necessary on the call of the Secretary for Human Resources. A majority of the appointed members shall constitute a quorum.

Section 10. A new section of KRS Chapter 194 is created to read as follows:

There shall be an annual joint conference of all members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Manpower Services, the Council for Social Services, the Council for Social Insurance, and the Council for Health Services. The Secretary for Human Resources shall be chairman of the annual joint conference and shall utilize this conference to discuss and receive joint recommendations from all of the commissions, institutes and councils involved in the programs and services of the Department.

Section 11. A new section of KRS Chapter 194 is created to read as follows:

(1) The Kentucky Drug Formulary Council and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Kentucky Drug Formulary Council shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the generic drug formulary program. The

composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky Drug Formulary Council shall continue and remain in its present form except that it shall not have the authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative process of the Department. This authority and responsibility shall reside exclusively with the Secretary for Human Resources and such employees of the Department designated by the Secretary to hold these powers.

(2) The Kentucky Certificate of Need and Licensure Board and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Kentucky Certificate of Need and Licensure Board shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the Certificate of Need and Licensure Program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky Certificate of Need and Licensure Board shall continue and remain in its present form, except that it shall not have authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative processes of the Department. This authority and responsibility shall reside exclusively with the Secretary for Human Resources and such employees of the Department designated by the Secretary to hold these powers.

(3) The Advisory Council for Medical Assistance and its associated bodies are hereby attached to the Bureau for Social Insurance for administrative and support purposes. The Advisory Council for Medical Assistance shall advise the Council for Social Insurance, the Secretary for Human Resources and the Commissioner for Social Insurance on the administration and operations of the Medical Assistance Program. The composition, structure, authorities, responsibilities, activities, programs, and resources of the Advisory Council for Medical Assistance shall continue and remain in its present form except as limited by Executive Order 74-47.

(4) The Comprehensive Health Planning Council and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Comprehensive Health Planning Council shall advise the Council for Health Services, the Kentucky Certificate of Need and Licensure Board, the Secretary for Human Resources, and the Commissioner for Health Services on the total health service, facility, and resource needs of the Commonwealth and the allocation of resources to address those needs. The composition, structure, authority, responsibilities, activities, programs, and resources of the Comprehensive Health Planning Council shall continue and remain in its present form except as limited by Executive Order 74-47.

(5) The Board of the Bureau for Veterans Affairs and its associated bodies are hereby attached to the Bureau for Social Services for administrative and support purposes. The Board of the Bureau for Veterans Affairs shall advise the Council for Social Services, the Secretary for Human Resources, the Commissioner for Social Services, and the Executive Director of the Center for Veterans Services on the administration of the veterans services program operated by the Department for Human Resources. The composition, structure, authority, responsibilities, activities, programs, and resources of the Board of the Bureau for Veterans Affairs shall continue and remain in its present form except as limited by Executive Order 74-47. The Board of the Bureau for Veterans Affairs is hereby renamed the Advisory Board for Veterans Affairs.

(6) The Water and Sewage Plant Operators' Licensing Board and its associated bodies are hereby attached to the Bureau for Health Services for administrative and support purposes. The Water and Sewage Plant Operators' Licensing Board shall advise the Council for Health Services, the Secretary for Human Resources, and the Commissioner for Health Services on the administration and operations of the Water and Sewage Plant Operators' Licensing Program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Water and Sewage Plant Operators' Licensing Board shall continue and remain in its present form, except as limited by Executive Order 74-47.

Section 12. A new section of KRS Chapter 194 is created to read as follows:

(1) The Kentucky Board of Licensure for Nursing Home Administrators is hereby transferred from the Department for Human Resources to the Division of Occupations and Professions in the Executive Department for Finance and Administration.

(2) The Kentucky Board for Licensing Hearing Aid Dealers is hereby transferred from the Department for Human Resources to the Division of Occupations and Professions in the Department for Finance and Administration for administrative purposes.

(3) The Commission on Women and its subcommittees, task forces, advisory committees, and other associated bodies are hereby transferred from the Department for Human Resources and shall be an independent agency under the Secretary of the Cabinet. The Commissioner of the Executive Department for Finance and Administration shall transfer funds appropriated to the Department for Human Resources for the functions of the Commission on Women to the Commission on Women.

Section 13. A new section of KRS Chapter 194 is created to read as follows:

The Kentucky Certificate of Need and Licensure Board, the Kentucky Drug Formulary Council, and the Water and Sewage Plant Operators' Licensing Board shall be the only statutory bodies attached to the Department that shall have the authority to issue administrative regulations. No other corporate body or

instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently or hereinafter attached to the Department, shall issue administrative regulations, but shall operate only in an advisory capacity.

Section 14. A new section of KRS Chapter 194 is created to read as follows:

No corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, attached to or within the Department, shall expend funds, hire employees, issue grants or otherwise engage in the normal administrative processes of the Department. All of these bodies shall be provided administrative and support services by the Department.

Section 15. A new section of KRS Chapter 194 is created to read as follows:

Whenever the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, and the Council for Social Services are assigned a responsibility for qualifying the Commonwealth for Federal programs with representation and membership formulas that conflict with a particular council's membership, the Secretary shall have the authority to create from the membership of the citizens' councils special subcommittees within these citizens' councils which meet Federal requirements.

Section 16. A new section of KRS Chapter 194 is created to read as follows:

Whenever Federal programs require a particular citizens' council within or attached to the Department to include state officials as voting members, the Secretary shall, for the specific purposes of those Federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the Commissioner of the Executive Department for Finance and Administration, or the Superintendent of Public Instruction, or the Secretary of the Department of Justice, or the Secretary for Natural Resources and Environmental Protection, or the Secretary of the Development Cabinet, or the Executive Director of the Council on Public Higher Education, or the Secretary of the Public Protection and Regulation Cabinet, or the Commissioner of Labor, or the Commissioner of Commerce, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these Federal programs. The Secretary shall exercise this prerogative only when the Federal programs specifically require that state officials be voting members of the citizens' councils.

Section 17. A new section of KRS Chapter 194 is created to read as follows:

The Secretary, and other state officials with the approval of the Secretary, may designate alternates or representatives to serve in their capacity as members of all boards, committees, councils, institutes, and other similar bodies within or attached to the Department, and the Secretary or his designee shall be an ex-officio member of all boards, committees, councils, institutes, commissions, and other similar bodies within or attached to the Department.

Section 18. A new section of KRS Chapter 194 is created to read as follows:

The Secretary is hereby authorized to create special task forces, technical advisory committees and other citizens' panels as may be necessary to support the operations of the Department. No other officials of the Department shall be authorized to create citizens' panels associated with the Department, its programs or sub-organizational units, and the Secretary shall not delegate this authority.

Section 19. A new section of KRS Chapter 194 is created to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, inter-state compacts, or other statutory bodies, transferred in whole or in part to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, the Water and Sewage Plant Operators' Licensing Board, the Comprehensive Health Planning Council, and the Advisory Board for Veterans Affairs, shall remain in effect as rules, regulations, acts, determinations, and decisions of the Department unless duly modified or repealed by the Secretary.

Section 20. A new section of KRS Chapter 194 is created to read as follows:

The Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, the Water and Sewage Plant Operators' Licensing Board, the Comprehensive Health Planning Council, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board shall be empowered to accept gifts and grants, but all such monies shall be administered by the Department, which shall administer these funds through appropriate trust and agency accounts.

Section 21. A new section of KRS Chapter 194 is created to read as follows:

The members of the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services and the Advisory Board for Veterans Affairs shall receive no compensation for their services, but shall be allowed the necessary and actual expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be

held to be a public officer by reason of his membership on a council.

Section 22. A new section of KRS Chapter 194 is created to read as follows:

Whenever the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, the Kentucky Manpower Commission, the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, the Water and Sewage Plant Operators' Licensing Board, the Comprehensive Health Planning Council, the Board of the Bureau for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, as they relate to the functions transferred in whole or in part by this Act, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council for Medical Assistance, the Water and Sewage Plant Operators' Board, the Comprehensive Health Planning Commission, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, in accordance with this Act, such references or designations shall be deemed to refer to the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the Council for Health Services, the Council for Social Insurance, the Council for Manpower Services, the Council for Social Services, the Advisory Council on Medical Assistance, the Water and Sewage Plant Operators' Licensing Board, the Comprehensive Health Planning Council, the Advisory Board for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board, or the Department for Human Resources, or the Secretary for Human Resources, as may be appropriate.

Section 23. A new section of KRS Chapter 194 is created to read as follows:

Except as otherwise provided in this Act, all authorities, functions, activities, programs, powers, and duties vested in the Department of Child Welfare, the Department of Economic Security, the Department of Health, the Department of Mental Health, the Commission on Aging, the Commission on Children and Youth, the Commission for Handicapped Children, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Division of Disability Determination of the Department of Education, and the Employment Agency Licensure Program of the Department of Labor are hereby transferred to the Department and shall be vested in its organizational structure as directed by the Secretary.

Section 24. A new section of KRS Chapter 194 is created to read as follows:

Except as otherwise provided in this Act, all rules, regulations, contracts, acts, agreements, determinations and decisions of the Department of Child Welfare, the Department of Economic Security, the Department of Health, the Department of Mental Health, the Commission on Aging, the Commission on Children and Youth, the Commission for Handicapped Children, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Division of Disability Determination of the Department of Education, and the Employment Agency Licensure Program of the Department of Labor shall remain in effect within the Department until duly modified or repealed by the Secretary.

Section 25. A new section of KRS Chapter 194 is created to read as follows:

All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment, wards, any and all resources or other tangible property and any business or other matter undertaken or vested in the Department of Child Welfare, the Department of Economic Security, the Department of Health, the Department of Mental Health, the Commission on Aging, the Commission on Children and Youth, the Commission for Handicapped Children, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Division of Disability Determination of the Department of Education, and the Employment Agency Licensure Program of the Department of Labor are hereby transferred to and vested in the Department.

Section 26. A new section of KRS Chapter 194 is created to read as follows:

All reports, documents, surveys, books, records, files, papers or other writing in the possession of the Department of Child Welfare, the Department of Economic Security, the Department of Health, the Department of Mental Health, the Commission on Aging, the Commission on Children and Youth, the Commission for Handicapped Children, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Division of Disability Determination of the Department of Education, and the Employment Agency Licensure Program of the Department of Labor and in the possession of all instrumentalities within or attached thereto shall remain in the custody of the Department. All confidential records, files or information maintained in accordance with state or federal law or regulations or rules of court shall be retained in accordance with present law, regulations or rules of court until modified or repealed or until the Secretary

establishes appropriate regulations to protect these records, files and information.

Section 27. A new section of KRS Chapter 194 is created to read as follows:

Any business, litigation, or other matters undertaken or commenced by or against the Kidney Disease Advisory Council, the Family Planning Committee, the Tuberculosis Commission, the Kentucky Manpower Commission, the Kentucky Advisory Committee on Day Care, The Kentucky Children's Advisory Council, the State Advisory Committee for Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Committee to the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Developmental Disabilities Act Advisory Council, the Kentucky Commission on Alcoholism and Drug Problems, the Commission on Aging, the Advisory Committee on Aging, the Commission on Handicapped Children, the Commission on Children and Youth, the State Board of Health, the Radiation Operators' Advisory Committee, the Advisory Council for Medical Assistance, the Water and Sewage Plant Operators' Licensing Board, the Comprehensive Health Planning Council, the Board of the Bureau for Veterans Affairs, the Kentucky Drug Formulary Council, and the Kentucky Certificate of Need and Licensure Board and still pending on the effective date of this Act shall be completed and conducted by the Department.

Section 28. A new section of KRS Chapter 194 is created to read as follows:

All corporate bodies or instrumentalities of the Commonwealth, advisory committees, commissions, councils, interstate compacts, or other statutory or executive order bodies attached to the functions in whole or in part of the Department of Child Welfare, the Department of Economic Security, the Department of Health, the Department of Mental Health, the Commission on Aging, the Commission on Children and Youth, the Commission for Handicapped Children, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Division of Disability Determination of the Department of Education, and the Employment Agency Licensure Program of the Department of Labor shall be attached to the Department.

Section 29. A new section of KRS Chapter 194 is created to read as follows:

Except as otherwise provided in this Act, the following departments, boards, commissions, committees, and other statutory bodies and their subcommittees, task forces, advisory committees, bureaus, divisions, offices and other sub-organizational units are abolished and terminated in their entirety: the Department of Economic Security, the Department of Health, the Department of Mental Health, the Department of Child Welfare, the Office of Economic Opportunity, the Bureau of Veterans Affairs, the Commission on Aging, the Commission for Handicapped Children, the Commission on Children and Youth, the Office of Youth Affairs, the State Board of Health, the Family Planning Committee, the Kidney Disease Advisory Committee, the Tuberculosis Commission, the Kentucky Manpower Council, the Kentucky Advisory Committee on Day Care, the Kentucky Children's Advisory Council, the State Advisory Committee on Public Assistance, the Kentucky Commission on Employment of the Handicapped, the Advisory Council on Mental Retardation, the Advisory Council on Mental Health, the Developmental Disabilities Services Act Advisory Council, the Kentucky Commission on Alcohol and Drug Problems, the Radiation Operators' Advisory Committee, the Advisory Council for Health Facilities, the Human Resources Coordinating Commission, the Human Resources Coordinating Council, the Health Planning Commission, the Citizens' Commission for Barkley State Boys' Camp, the Citizens' Commission for Woodsbend Boys' Camp, the Citizens' Commission for the State Reception Center at Lyndon.

Section 30. A new section of KRS Chapter 194 is created to read as follows:

(1) The Secretary and his designated representatives in the discharge of the duties of the Secretary for Human Resources may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the Department.

(2) The Secretary may delegate any duties of his office to employees of the Department as he deems necessary and appropriate, unless otherwise prohibited by statutes.

(3) The Secretary may enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of the Department.

Section 31. KRS 17.150 is amended to read as follows:

Every sheriff, chief of police, coroner, jailer, judge, magistrate, prosecuting attorney, court clerk, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; state police, state fire marshal, board of alcoholic beverage control; *Department for Human Resources* [Bureau of Vital Statistics]; Department of *Transportation* [Highways]; *Bureau* [Department] of Corrections; [Department of Child Welfare] and every other person or agency, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the *Department* [Bureau], shall:

(1) Install and maintain records needed for reporting data required by the *Department* [Bureau].

(2) Report to the *Department* [Bureau] as and when the *Department* [Bureau Chief] requests, all data demanded by it [him] except that such reports concerning a juvenile delinquent shall not reveal his or his parents' identity).

(3) Give the *Department* [Bureau] or its accredited agent access for purpose of inspection.

(4) Cooperate with the *Department* [Bureau] to the end that its duties may be properly performed.

Section 32. KRS 18.140(1)(I) is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.340 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(I) Physicians employed as such by the *Department for Human Resources* [State Tuberculosis Hospital Commission and the Department of Mental Health].

Section 33. KRS 36.310 is amended to read as follows:

(1) There is created a Board to be known as the *Advisory Board for Veterans Affairs*. [Kentucky Bureau for Veterans Affairs which shall constitute an independent agency of the state government within the meaning of KRS Chapter 12.] The Board shall be composed of five (5) members appointed by the Governor. Two of said members shall serve for a period of three years, two for a period of two years and one for a period of one year and all shall serve until their successors are appointed, and with all appointments after the original appointments being for three years. It is further provided that said appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. Insofar as practicable, the Governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each said major veterans organization may, from time to time, submit a list of not more than three names to the Governor from which list original appointments may be made and vacancies filled in his discretion.

(2) Members of the board shall meet at least once every two months at the headquarters of the *Advisory Board for Veterans Affairs* [Bureau of Veterans Affairs], and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.

(3) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to Department for [of] Finance and Administration regulations.

(4) At its first meeting the members of the board shall select a chairman, vice-chairman and secretary from among the members.

(5) *The Board shall advise the Department for Human Resources on the administration of its veterans services programs.*

Section 34. KRS 36.330 is amended to read as follows:

(1) The *Department for Human Resources* [Bureau of Veterans Affairs] shall collect all necessary data and information regarding facilities and services available to veterans, their families, and dependents, and shall cooperate with all information or service agencies throughout the state in informing such persons regarding the existence or availability of all educational, training and retraining facilities; health, medical, rehabilitation and housing services and facilities; employment and re-employment services; provisions of federal, state and local laws affording rights, privileges and benefits to said persons, their families and dependents, and all other matters of similar related or appropriate nature. It shall likewise be the duty of said *Department for Human Resources* [bureau] to assist veterans and their families and dependents in the presentation, proof and establishment of all claims, privileges, rights and other benefits which they may have under federal, state or local laws, and to cooperate with all national, state and local government and private agencies securing services or any benefits to veterans, their families and dependents.

(2) The *Department for Human Resources* [director] shall prepare and submit to the Governor and each member of the board an annual report with reference to claims presented on behalf of veterans and to otherwise report the activities and accomplishments of the department.

(3) The *Department for Human Resources* [bureau through its director] shall be authorized to apply for and accept gifts, grants, and other contributions from the federal government, or from any other governmental unit *which funds shall be administered by the Department for Human Resources through use of trust and agency accounts.* [and shall be further authorized to use the funds received for the purposes authorized and directed by the federal government or such other governmental unit in making such funds available.]

(4) Veterans as used in KRS 36.310 to 36.330 include any individual who served on active duty during peace or war in the armed forces of the United States, and who has received an honorable discharge from such service.

(5) *The department shall maintain full, adequate and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the department.*

Section 35. KRS 61.420(4) is amended to read as follows:

(4) "State agency" means the *Department for Human Resources* [Division of Personnel Security in the Department of Economic Security];

Section 36. KRS 62.170 is amended to read as follows:

(1) The Commissioner *for* [of] *Finance and Administration* shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position from, to cover all other officers, employes or deputies of the Commonwealth of Kentucky, including all other members of boards or commissions or employes of such boards or commissions, and including all superintendents, receivers or employes of penal or eleemosynary institutions managed or directed by the Department of *Justice* [Corrections], *Department for Human Resources* [Department of Child Welfare, Department of Health] or any other department or agency of the Commonwealth of Kentucky, nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The Commissioner *for* [of] *Finance and Administration* may secure one or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Department of Personnel and in accordance with the amounts of money and property handled by the respective officers and employes.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. Such bonds may be written with or without cosureties. Further, such bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the Commissioner *for* [of] *Finance and Administration* in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Department of Personnel, and in accordance with the amounts of money and property handled by the respective officers and employes.

Section 37. KRS 72.220 is amended to read as follows:

The Department for Human Resources [There is hereby created within the state Department of Health a medical examiner services and post-mortem examination section. The medical examiner section] shall, within budgetary limitation, provide medical assistance to coroners in investigating deaths; provide or contract for laboratory facilities for performing autopsies and investigations pursuant to KRS 72.210 to 72.275; provide for the keeping of reports of all investigations and examinations; and provide such other functions and duties as may be specified in KRS 72.210 to 72.275 or in the rules and regulations of the *Secretary for Human Resources* [State Board of Health].

Section 38. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services [and post-mortem examination section. The Commissioner of Health and the]. *The Commissioner of State Police* [Public Safety] *and the Secretary for Human Resources* shall be ex-officio members of the advisory commission. *The Secretary for Human Resources* [Commissioner of Health] shall appoint five (5) additional members for terms of four (4) years each or until their successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 39. KRS 96.911 is amended to read as follows:

As used in KRS 96.910 to 96.927, unless the context otherwise requires:

(1) "City" means an incorporated municipality of any class *and a county that has adopted an urban county government*, except those communities served by a metropolitan sewer district, under the provisions of KRS Chapter 76;

(2) "Governing Body" means the municipal legislative body of a city;

[(3) "Board of Health" means the State Board of Health;]

(3) [(4)] "Commission" means the *Department for Natural Resources and Environmental Protection* [State Water Pollution Control Commission];

(4) [(5)] "Sewer" means any structure or installation for the drainage of liquid wastes, but only insofar as they relate to sanitation and the control of water pollution, as distinguished from the drainage of storm or surface waters; however, where both functions are carried out by the same system, it is to be construed as a sewer;

(5) [(6)] "Natural Drainage Area" means any geographical area within which liquids flow by gravity to a common point, which is necessary, reasonable, or practicable from the standpoint of sewage treatment and disposal, as approved by the [Board of Health and the] Commission.

Section 40. KRS 195.040 is amended to read as follows:

[(1) The Bureau of Employment Security shall be headed by an executive director who shall be chairman of the Unemployment Insurance Commission. The executive director, with the prior approval of the commissioner, may integrate and combine the functions and duties of the divisions within the bureau

insofar as he considers such integration and combination economical and practicable for the proper and efficient administration of the bureau.]

(1) [(2)] The *Department for Human Resources* [Bureau of Employment Security] shall establish and maintain free public employment offices in such number and such places as are necessary for the proper administration of KRS Chapter 341 and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a National Employment Service and for Cooperation with the States in the Promotion of Such System and for Other Purposes," approved June 6, 1933 (48 Stat. 113, U.S. Code, Title 29, Section 49(c)), as amended, and known as the Wagner-Peyser Act. All duties and powers relating to the establishment, maintenance, and operation of free employment officers are vested in the *Department for Human Resources* [of Economic Security]. The provisions of the Wagner-Peyser Act, as amended, are accepted by this state, in conformity with Section 4 of the Act, and this state will observe and comply with the requirements thereof. The *Department for Human Resources* [of Economic Security] is hereby designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act.

Section 41. KRS 195.180 is amended to read as follows:

The duties of the *Department for Human Resources* [Commission] shall be to:

- (1) Promote and aid in the establishment of local programs supporting the employment of the handicapped;
- (2) Conduct continuing programs of public information and promotion to educate the public as to problems of employment of the handicapped;
- (3) Review existing state programs for employment of the handicapped and make recommendations to the Governor, to the appropriate departments and agencies of the state, and to the General Assembly for improvements in and additions to such programs;
- (4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of employment of the handicapped;
- (5) Cooperate with the federal government and with the governments of other states and cities in programs relating to the handicapped;
- (6) Cooperate with all groups interested in job adjustment and employment of the handicapped, including government agencies, organizations, private groups and individuals;
- [(7) Furnish the Department of Economic Security an annual report together with recommendations.]

Section 42. KRS 199.605 is amended to read as follows:

- (1) If a woman, after the birth of an illegitimate child, should give birth to one or more illegitimate children, the department [of child welfare or department of economic security] may institute action to terminate parental control of the minor children of that person. The fact of such multiple illegitimate births shall be prima facie evidence of the woman's unfitness to have the custody and control of said children, and if not rebutted may be considered sufficient evidence upon which to base a judgment terminating parental custody and control of such children.
- (2) Action under this section shall be brought by the county attorney at the request of the department [of child welfare or department of economic security].

Section 43. KRS 200.490 is amended to read as follows:

All information as to medical data, personal facts, and circumstances obtained by the *Department for Human Resources* [commission] staff shall constitute privileged communications, shall be held confidential and shall not be divulged without the consent of the father, mother, guardian, person who committed the child, or the patient involved, except as may be necessary to provide additional services to children through other medical, welfare or service agencies and institutions. Such information may be disclosed in summary, statistical or other form which does not identify particular individuals.

Section 44. KRS 205.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

- (1) "Department" means the *Department for Human Resources* [of Economic Security];
- (2) "Secretary" ["Commissioner"] means the *Secretary for Human Resources* [Commissioner of Economic Security] or his authorized representative;
- [(3) "Bureau" means the Bureau of Public Assistance in the Department of Economic Security;]
- (3) [(4)] "Public Assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives or a family containing a combination of these categories;
- (4) [(5)] "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (5) [(6)] "Parent", in addition to natural or adoptive parent, shall include stepparent;
- (6) [(7)] "Needy aged" means a person who has attained the age of sixty-five and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency

and health;

(7) [(8)] "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) [(9)] "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one or more other persons;

(9) [(10)] "Needy permanently and totally disabled" means a person eighteen years of age or older and who has a permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) [(11)] "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation or other organization which provides a group living arrangement for four or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) [(12)] "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one or more individuals are cared for and maintained in residence;

(12) [(13)] "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) [(14)] "Person determined to be potentially responsible" means any person who:

(a) Is not aged, blind, disabled, incapacitated, or needed in the home.

1. Because of the illness or incapacity of a member of the family, or

2. Because of children in the home under the age of six (6), or

(b) Volunteers for such determination.

Section 45. KRS 205.177 is amended to read as follows:

(1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients or applicants in the possession of the *Department of Justice* [Department of Corrections], *Department for Human Resources* [Department of Child Welfare, Department of Economic Security], Department of Education, [Department of Health, Department of Mental Health,] or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if such agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

(2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

Section 46. KRS 205.180 is amended to read as follows:

The *Secretary for Human Resources* [Commissioner] may authorize the destruction of such original reports and records as have been properly recorded or summarized in the permanent records of the *Department* [Division] or are no longer considered necessary to the proper administration of the Department. Such destruction or disposition shall be made only by order of the *Secretary* [Commissioner]. Any money received from the disposition of such records shall be deposited to the credit of *Trust and Agency Accounts* [Public Assistance Fund].

Section 47. KRS 205.430 is amended to read as follows:

If the home is unsuitable according to the evaluation made under KRS 205.420 but there is reason to believe that elimination of the undesirable conditions can be effected, the department will take the following action:

(1) Give intensive case work service to improve the undesirable conditions in the home.

(2) When intensive efforts over a reasonable period have failed to improve the home conditions, the department shall determine if any other relative or person specified by the Social Security Act is maintaining a suitable home and is willing to take custody and care for the child in their home. Upon an affirmative finding, the department shall, if the parents or relative with whom the child is living consent, assist the parent or relative in effecting the placement.

(3) If there are no suitable relatives or other specified persons available for the care of the child in their home, or if the relative with whom the child lives refuses to agree to either improving the home condition or to permit the voluntary removal of the child from the home, the department [, or the department of child welfare,] shall file a petition for court action *for removing the child* with the appropriate county court. The Department[, or the department of child welfare,] shall give in writing the reason for the petition and request a determination from the court within a thirty-day period.

Section 48. KRS 205.540 is amended to read as follows:

(1) An Advisory Council for Medical Assistance shall be established in the state government. The council shall consist of *thirteen (13)* [fourteen] members the *Secretary for Human Resources* [Commissioner of Health and the Commissioner of the Department of Economic Security] shall be an *ex officio* member[s]. The other twelve members of the council shall be appointed by the Governor and shall hold office for a term of four years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two members shall be appointed for one year, two for two years, two for three years, and three for four years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. The term of the first optometrist member shall begin July 1, 1970. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four years or until his successor is appointed and qualified. Appointments shall be made one from each list of three nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmaceutical Association; the Kentucky Association of Nursing Homes and Personal Care Homes; the Kentucky State Association of Registered Nurses; and the Kentucky Optometric Association. The other five appointive members shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution.

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 49. KRS 205.550 is amended to read as follows:

The council shall develop and formulate recommendations to the *Department for Human Resources* [department of economic security and the department of health] as to policies, plans, budgets, programs, and rules and regulations relating to:

(1) The administration of KRS 205.510 to 205.610, 205.991 and 211.106;

(2) The utilization of facilities and personnel of the *Department for Human Resources* [of economic security and the department of health];

(3) The designation, by regulation, of the scope of medical care for which the *Department for Human Resources* [of Economic Security] should take to pay;

(4) The designation, by regulation, of quantity and quality standards and of methods for determining costs for vendor payments for medical care services, taking into consideration insurance and other financial resources available to the recipients;

(5) The designation, by regulation, of the limitations, duration and frequency of medical care for which vendor payments for medical care services should be made;

(6) The administration of grants, gifts, and contributions from the federal government, or from other sources, for the purpose of carrying out the intent and purposes of KRS 205.510 to 205.610, 205.991 and 211.106;

(7) The establishment of and contribution to a federal-state medical care fund from funds appropriated from time to time by the general assembly;

(8) The conducting of studies, research, demonstrations, and surveys to carry out the purposes of KRS 205.510 to 205.610, 205.991 and 211.106;

(9) Agreements and contracts for the administration of KRS 205.510 to 205.610, 205.991 and 211.106;

(10) The utilization of facilities and personnel of local health departments and local public assistance offices;

(11) The periodic evaluation of the program and publication of reports thereof;

(12) The formulation of such modifications, expansions, or contractions of the program as may be desirable or necessary.

Section 50. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the *Department for Human Resources* [of Economic Security] undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof. The selection of the class or classes of medical care shall be recommended by the council to the *Secretary for Human Resources* [Commissioner of the Department of Economic Security and the Commissioner of the Department of Health] after taking into consideration, among other things, the

amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories:

- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
- (b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician or dentist;
- (c) Drugs, nursing care, and medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician or dentist;
- (d) Physician, dental and optometric services.
- (2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one of the functions of the council to make recommendations to the Department *for Human Resources* [of Health] with respect to such bases for payment.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions.
- (5) Nothing in this section shall require that any payment be made for optometric services or ophthalmic supplies.

Section 51. KRS 208.330 is amended to read as follows:

Probation officers of the juvenile court shall:

- (1) Make investigations as provided in KRS 208.140.
- (2) Be present in court to represent the interest of the child when the cases investigated by them are heard; furnish such information as may be required; advise with the court as to the proper disposition of the case; and take such charge of the child before and after the hearing as may be ordered.
- (3) Visit and supervise children placed on probation, and as far as practicable, aid and encourage such children, by friendly advice and admonition, to keep the terms of their probation, and provide for their rehabilitation.
- (4) Make such reports and records as may be required by the court.
- (5) Supervise the transfer of children to and from homes or institutions, as directed by the court.
- (6) Work in cooperation with the representatives of the Department *for Human Resources* [and of the Department of Economic Security].

Section 52. KRS 208.460 is amended to read as follows:

If it appears that a child committed to the department is mentally ill or defective, the department may *use state mental hospital facilities or other resources* [apply on his behalf for his may admission and may consent to his admission for a period of observation not to exceed sixty (60) days, to the Frankfort state hospital and school, a public hospital having a psychopathic ward or facilities suitable for the observation of mental conditions, or to any other facility designated by the department of mental health] for observation of mental conditions. If it appears from such observations that the child requires treatment or hospitalization for mental illness or defect, the department shall cause proceedings to be instituted pursuant to the appropriate provisions of KRS chapter 202.

Section 53. KRS 210.010 is amended to read as follows:

[(1) There hereby is created a department of mental health which shall constitute a statutory administrative department of the state government within the meaning of KRS chapter 12. The department shall be headed by a commissioner of mental health who shall be the executive officer and shall have sole charge of the administration of the department.]

[(2) The commissioner shall have authority, with the approval of the governor, to appoint an assistant commissioner and directors of the various divisions in the department, and prescribe their duties. The assistant commissioner may be designated as director of a division.]

(1) [(3)] The *Secretary for Human Resources* [commissioner] shall have authority to prescribe rules and regulations for the administration of the department and of the institutions under the control of the department, including power to regulate the payment of money to patients in mental institutions for work performed.

Section 54. KRS 210.035 is amended to read as follows:

(1) There is hereby created a medical school-mental health coordinating committee. The committee shall include the following ex-officio members: The dean of the college of medicine of the University of Kentucky; the dean of the school of medicine of the University of Louisville; the *Secretary for Human Resources* [commissioner of mental health; and the deputy commissioner of mental health for mental retardation]. In addition, the governor shall appoint the following members: a qualified private physician with approved training in psychiatry, a member of the senate and a member of the house of representatives of Kentucky. Terms of appointed members of the committee shall be two (2) years. Members of the committee shall serve without pay, but shall receive their actual and necessary expenses incurred while on the business of the committee.

(2) The committee shall hold fixed regular meetings, no less than one (1) every two (2) months, at a time and place designated by the committee. The committee shall elect a chairman and a secretary, and is authorized to enact bylaws for the conduct of its meetings, for the conduct of routine business between meetings, and to establish procedures for calling special meetings of the committee.

(3) The purpose of the committee shall be to establish and improve active coordination between the university medical schools of the commonwealth and those institutions of the *Department for Human Resources* [of Mental Health] located in areas close to the medical schools. In furtherance of the committee's purpose, its duties shall include:

(a) Review of plans for any new state mental health or mental retardation institution to be located in areas close to the medical schools;

(b) Promotion of affiliation of the medical schools with the state institutions in their areas, particularly with Central State Hospital and with Eastern State Hospital; and

(c) To continuously examine and develop areas of possible cooperation between the schools and state institutions in their areas, to include but not to be limited to methods of sharing available facilities in the most economical and useful manner.

Section 55. KRS 210.040 is amended to read as follows:

The *Department for Human Resources* [of Mental Health] shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of the mentally ill;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with the department of health and with other state agencies for the development of a statewide mental health program looking toward the prevention of mental disease and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the department;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for the mentally defective;

(6) Administer and supervise programs for the noninstitutional care of mentally ill persons;

(7) Supervise private mental hospitals receiving patients committed by order of a court.

Section 56. KRS 210.090 is amended to read as follows:

Neither the Commissioner of the Bureau for Health Services of the Department for Human Resources nor his deputy nor any superintendent or director of an institution of the Bureau for Health Services shall be permitted to engage in any political activity [Neither the Commissioner nor the assistant commissioner nor any superintendent or director of an institution of the Department of Mental Health shall be permitted to engage in any political activity].

Section 57. KRS 210.175 is amended to read as follows:

Mental health work training centers shall form nonprofit corporations in order to administer funds received from work done by the patients trained in these centers. The Board of Directors shall include *three employees of the Department for Human Resources designated by the Secretary* [the Commissioner of the Department of Mental Health, the superintendent of the facility where the center is located, the director of the work training center], and the director of the Bureau of Rehabilitation Services, Department of Education.

Section 58. KRS 210.180 is amended to read as follows:

There shall be established and maintained, at each of the institutions operated by the *Department for Human Resources* [of Mental Health], a canteen which shall be incorporated and self-supporting. The directors of each canteen shall be *appointed by the Secretary* [the Commissioner of Mental Health, the Deputy Commissioner for Administration, and two (2) staff members of the institution]. All profits from each canteen shall be used exclusively for the benefit of the patients of the institution.

Section 59. KRS 210.190 is amended to read as follows:

The *Secretary for Human Resources* [Commissioner of Mental Health] may utilize the services of the workers of the *other departments* [Department of Health, and the social workers of the Department of Corrections and the Department of Economic Security], when authorized by the *agency heads*

[commissioners] of these departments. The *Secretary for Human Resources* [Commissioner of Mental Health] may authorize payment of the actual traveling expenses of the workers so utilized.

Section 60. KRS 210.200 is amended to read as follows:

At least four (4) times in each calendar year, the *Secretary for Human Resources* [Commissioner of Mental Health] shall visit or cause to be visited by *other Department for Human Resources personnel* [the assistant commissioner, or a physician of the staff of one of the institutions], every state institution over which the *Department for Human Resources* [of Mental Health] has control. The visits shall be made on such days and at such hours of the day or night, and for such length of time, as the inspecting officer may choose. In addition to these regular visits, the inspecting officer may make such other visits as the *Secretary* [commissioner] deems necessary. Every visit shall include an inspection of every part of the institution, including the buildings and grounds in connection therewith, an examination of all records and the methods of administration, the general and special dietary, and of every patient confined therein, especially those admitted since the preceding visit, giving them suitable opportunity to converse with the inspecting officer, apart from the officers and attendants of the institution. The inspecting officer shall examine the officers, attendants and other employes, and make inquiries to determine their fitness for their respective duties.

Section 61. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the *Secretary for Human Resources* [commissioner of Mental Health] shall:

(1) Promulgate rules and regulations governing eligibility of community mental health programs to receive state grants, prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, and such other rules and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health boards and program administrators;

(3) Provide consultative staff service to communities to assist in ascertaining local needs and in planning and establishing community mental health programs; and

(4) Employ qualified personnel, including a director of community mental health services, to implement KRS 210.370 to 210.460.

Section 62. KRS 211.015 is amended to read as follows:

As used in KRS 211.005 to 211.330, unless the context requires otherwise:

(1) "Department" means the [state] *Department for Human Resources* [of Health];

(2) "Board" means the State Board of Health;

(2) [(3)] "*Secretary*" ["Commissioner"] means the *Secretary for Human Resources* [Commissioner of Health];

[(4)] "Deputy" means Deputy Commissioner of Health;

[(5)] "Division" means a Division of the Department of Health;

[(6)] "President" means President of the State Board of Health;

[(7)] "Secretary" means Secretary of the State Board of Health.]

Section 63. KRS 211.090 is amended to read as follows:

(1) The *Secretary* [Board] shall:

(a) Appoint county and district boards of health pursuant to KRS 212.020 and 212.030;

(b) Hear and decide appeals from rulings, decisions and actions of the department [or the commissioner], where the aggrieved party makes written request therefor to the *Secretary* [Board] within thirty days after the ruling, decision or action complained of;

(c) Adopt rules and regulations necessary to regulate and control all matters set forth in KRS 211.180 to the extent the regulation and control of same have not been delegated to some other agency of the Commonwealth and adopt such other rules and regulations as may be necessary to effectuate the purposes of this chapter and any other law relating to public health, except as otherwise provided by law;

(d) Issue or deny hospital licenses;

(e) Approve or disapprove the establishment of proposed hospital service corporations and contracts for hospital service corporations and contracts for hospital services pursuant to KRS 304.32-030;

(f) Approve or disapprove of the establishment of proposed medical service plan corporations and contract for medical services pursuant to KRS 304.32-050, 304.32-140, and 304.32-160;

[(g)] Act in a general advisory capacity to the commissioner on all matters relating to the department;]

[(h)] When necessary, appoint ad hoc or special committees to provide advice and recommendations to the Board on technical, scientific or medical matter. The Board may allow reimbursement for expense for

necessary travel, lodging and subsistence incurred in connection therewith;]

(i) Enforce the provisions of KRS 311.250, 311.260, 311.375, 311.376.

[(2) Except as otherwise provided in subsection (1) of this section, all powers and authority of the Board under existing statutes, are transferred to the department.]

Section 64. KRS 211.220 is amended to read as follows:

For the purposes of enforcing the public health laws of the commonwealth, investigators, inspectors, officers, representatives and agents of the department may enter upon any premises when necessary for the purpose of making inspections and investigations, and may view evidence and interrogate persons, to the extent required in the performance of their duties and responsibilities. The *Secretary for Human Resources* [board or the commissioner] may issue subpoenas, subpoenas duces tecum and all necessary process in proceedings brought before or initiated by the department [or board], and such process shall extend to all parts of the commonwealth. Service of process may be made by registered mail or in the manner prescribed by the Rules of Civil Procedure. Nothing in this section shall be construed to authorize the department [or board] to regulate the practice of any healing art where the licensure regulation and control of same has been conferred by statute upon some other agency of the state.

Section 65. KRS 211.230 is amended to read as follows:

In case of a failure on the part of any person, firm or corporation to comply with any lawful order of the *Department for Human Resources* [board], or with process or in case of the refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the circuit court, or a judge thereof, having jurisdiction may, on application of the *Department for Human Resources or the Secretary for Human Resources* [board or the Commissioner], compel obedience by proceedings as in contempt cases.

Section 66. KRS 211.250 is amended to read as follows:

While retaining the right to vote as he may please and to express privately his opinion of all political subjects and issues, *neither the Commissioner for Health Services nor any employee of the Bureau* [no employe or officer of the department, including the Commissioner], shall take any active part in political management or political campaigns, nor shall he use his office or influence for the purpose of interfering in any election or affecting the results thereof, or for the purpose of coercing the political action of any body or person.

Section 67. KRS 211.315 is amended to read as follows:

Before being granted a loan or scholarship each applicant shall enter into a contract with the *Department for Human Resources* [board] which shall be deemed a contract with the Commonwealth of Kentucky, agreeing to the terms and conditions upon which the loan or scholarship shall be granted to him. The contract shall include such terms and provisions as will carry out the purpose and intent of KRS 211.300 to 211.330 and shall be signed by the *Secretary for Human Resources* [president of the board, countersigned by the secretary,] and signed by the applicant.

Section 68. KRS 211.420 is amended to read as follows:

(1) There is hereby established within the *Department for Human Resources* [of Health], a rural Kentucky dental scholarship fund.

(2) Commencing July 1, 1958, there shall be available each fiscal year to applicants selected by the board with the approval of the *Department for Human Resources* [dental division of the state department of health], ten (10) scholarships for the study of dentistry leading to the attainment of the degree of doctor of dental surgery, or some equivalent degree. If in any years less than ten (10) scholarships are awarded, the number available but not granted shall be carried over and added to those available in succeeding years.

(3) A scholarship shall not exceed one thousand five hundred dollars (\$1,500) per annum. No recipient of a scholarship shall receive more than six thousand dollars (\$6,000) for his entire course of dental study.

(4) In granting scholarships the board shall make a careful and full investigation of the ability, character and qualifications of each applicant, and may personally examine each applicant. The board shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship.

Section 69. KRS 211.640 is amended to read as follows:

The duties of the *Department for Human Resources* [commission] shall be to:

(1) Promote and develop effective programs of education, health, recreation, welfare, public safety and correctional services for children and youth;

(2) Conduct continuing programs of public information to educate the public as to problems of children and youth;

(3) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of children and youth;

(4) Cooperate with the federal government and with the governments of other states and cities in programs relating to children and youth;

(5) Conduct programs of research as to the needs of children and youth in order to facilitate more comprehensive and better related social planning and action;

[(6) Cooperate with the department of child welfare, the department of economic security, the department of health, the department of mental health and the commission for handicapped children in carrying out the duties prescribed by this section by making the fullest possible use of the experience and resources of those departments;]

[(7) Furnish the governor a biennial report together with recommendations.]

Section 70. KRS 211.870 is amended to read as follows:

The *Department for Human Resources* [Kentucky State Board of Health] may adopt regulations relating to operators of sources of radiation other than licensed practitioners of the healing arts. The regulations may include, but need not be limited to, the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; and such other standards or regulations as may be appropriate for *protection of health and safety* [carrying out the intent of KRS 211.860 to 211.890].

Section 71. KRS 212.180 is hereby amended to read as follows:

Every health officer provided for by this chapter shall be a *duly licensed* physician [duly licensed by the State Board of Health], and shall possess such other qualifications that are prescribed by the *Department for Human Resources* [State Board of Health].

Section 72. KRS 212.260 is amended to read as follows:

(1) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the *Department for Human Resources* [state] and county boards of health.

(2) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

Section 73. KRS 212.270 is amended to read as follows:

The county and commonwealth's attorneys and the attorney general, within their respective jurisdictions, shall represent the *Department for Human Resources* [state] and local boards of health in all matters relating to the enforcement of the health and medical laws and the performance of the duties of those boards, but when the *Secretary for Human Resources* [state board of health] deems it necessary, it may employ at its discretion special attorneys and inspectors to assist the county and commonwealth's attorneys or the attorney general and may pay reasonable compensation for the same from any unexpended funds at its disposal.

Section 74. KRS 213.010 is amended to read as follows:

The *Department for Human Resources* [Division of Vital Statistics in the Department of Health] shall administer the provisions of this chapter [under the general supervision of the state board of health]. *The Department shall maintain office space* [Suitable offices shall be provided for the Division of Vital Statistics,] properly equipped with fireproof vault and filing cases for the permanent and safe preservation of all officials records made and returned under this chapter.

Section 75. KRS 213.110 is hereby amended to read as follows:

(1) The body of any person whose death occurs in this state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a permit for burial, removal or other disposition has been issued by the registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the *Department for Human Resources* [state board of health] to be infectious, contagious or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the *Department for Human Resources* [state] and local board[s] of health. Except as provided in subsections (2) and (3) of this section, no burial or removal permit shall be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him. If any certificate of death is incomplete or unsatisfactory, the registrar shall call attention to the defects in the return, and shall withhold issuing the burial or removal permit until they are corrected.

(2) A transit permit issued in accordance with the law and health regulations of the place where the death occurred, whether in or outside of this state, may be accepted by the local registrar of the district where the body is to be interred or otherwise finally disposed of, in lieu of a certificate of death, but he shall plainly enter on the face of the copy of the record made for return to the *Department for Human Resources* [division of vital statistics] the fact that it was a body shipped in for interment and the actual place of death. If the transit permit was issued outside of this state the local registrar of the district where the body is to be finally disposed of shall issue a local burial permit, but if the transit permit was issued in this state the registrar's

burial or removal permit from the district where the death occurred may be accepted as authority for burial at the point of destination, without the issuance of a local burial permit.

(3) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body, unless the services of the coroner or the health officer are required or the *Department for Human Resources* [state board of health] deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body, the undertaker or person acting as such shall file with the local registrar or deputy registrar prior to interment, a provisional certificate of death, which shall contain the name, date and place of death of the deceased and an agreement to furnish within five (5) days a complete and satisfactory certificate of death and the undertaker or person acting as such shall secure a complete and satisfactory certificate of death as provided in KRS 213.100 and return it within five (5) days from the date of burial to the local registrar of the district in which the death occurred.

(4) The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial, before interring the body, or, if the body is to be shipped by a transportation company, shall attach the transit permit, containing the registrar's removal permit, to the box containing the body. The transit permit shall accompany the body to its destination.

Section 76. KRS 213.320 is amended to read as follows:

The Department for Human Resources shall perform [There is hereby created within the Division of Vital Statistics of the State Department of Health a section for] the collection, indexing, tabulations, and registration of data relating to marriages, divorces, annulments and adoptions. The *Secretary for Human Resources* [State Board of Health] shall adopt such rules and regulations as may be necessary to carry out the provisions of KRS 213.320 to 213.340.

Section 77. KRS 215.350 is amended to read as follows:

(1) The *Secretary for Human Resources* [State Board of Health] shall visit, at such periods as in its discretion may be sufficient, any sanatoria established under the provisions of KRS 215.080 to 215.340, and shall recommend to the boards of trustees of the sanatoria any changes in management or in employees that it deems necessary and proper. If, in the opinion of the *Secretary for Human Resources* [State Board of Health], any board of trustees or member of such board or employee of any sanatorium, state or county, is incompetent or neglectful of duty, the *Secretary for Human Resources* [State Board of Health] shall prefer charges against the board, member or employee. All charges against a board of trustees or a member thereof shall be made to the officer authorized to make the appointment, and if he deems the charges adequate and sustained he shall remove the board or member. All charges against employees shall be made to the board by whom employed, and if in the opinion of the board the charges are adequate and sustained the board shall at once remove the employee.

(2) The *Secretary shall direct an employee of the Department for Human Resources to* [Director of the Division of Tuberculosis Control in the Department of Health shall] visit all sanatoria, both public and private, at least once during each calendar year, and report and file with the records of the *Department for Human Resources* [of Health] a statement of the condition and efficiency of each sanatorium.

(3) The *Secretary for Human Resources* [State Board of Health] may make such rules and regulations, not in conflict with the powers delegated to the local boards, as may be necessary to enforce the provisions of KRS 215.080 to 215.340 and to control the action of local boards when its members fail or refuse to execute the provisions of those sections.

Section 78. KRS 215.520 is hereby amended to read as follows:

[The Director of the Division shall be a duly qualified physician, licensed to practice medicine in Kentucky and shall have had at least five (5) years' experience in the diagnosis, treatment, and control of tuberculosis. The State Department of Health, through its Division of Tuberculosis Control,] *The Secretary for Human Resources* shall discharge all duties relating to all matters of tuberculosis control, including but not limited to the following:

- (1) The operation of all hospitals previously operated by the State Tuberculosis Hospital Commission, or such of them as it determines to be necessary for the care of persons needing treatment for tuberculosis;
- (2) The treatment of persons having tuberculosis in hospitals not operated by the Commonwealth, by contract or other suitable arrangement and the payment therefor;
- (3) The construction of additional facilities for the treatment of tuberculosis in cooperation with, or as a part of, privately or publicly owned hospitals;
- (4) The operation of a system of out-patient clinics and x-ray facilities, adequately supported by high quality laboratory facilities;
- (5) The provision of training for employees;
- (6) The supervision of activities of all local health departments regarding tuberculosis control;
- (7) The *adoption* [recommendation] of regulations [to the State Board of Health for adoption] for tuberculosis control;

(8) The maintenance of a central register of all known cases of tuberculosis in the Commonwealth, and such local registers as are desirable, and the collection, collation, analysis and publication of statistics and other information;

(9) The establishment and supervision of tuberculosis programs in cooperation with the [Department of Mental Health] Department of Corrections, Department of Education, [Department of Economic Security] and other state agencies within their respective jurisdictions;

(10) The establishment within the *Department* [Tuberculosis Control Division] appropriate social service and financial responsibility appraisal methods to insure that tuberculosis patients or suspects receive all possible support from third-party payors, or from the medical assistance program before becoming a charge against the tuberculosis control funds of the Commonwealth;

(11) The dissemination of educational materials to the citizens of the Commonwealth regarding tuberculosis and its control;

(12) The initiation of special programs and demonstrations in cooperation with agencies of the federal government, universities, voluntary agencies and other individuals or corporations;

(13) The provision of direct assistance to local health departments, to other agencies of state government, and to other organizations to assist them in carrying out programs of tuberculosis control;

(14) Except as otherwise provided by law, to do all other things reasonably necessary to carry out the intent of KRS 215.510 to 215.600.

Section 79. KRS 215.550 is hereby amended to read as follows:

(1) No person diagnosed as having tuberculosis and having been so informed shall refuse to submit himself for further examination to determine the communicability of his disease upon reasonable request by the *Department for Human Resources* [state] or local health department.

(2) No person diagnosed as having communicable tuberculosis and having been so informed shall refuse to take such reasonable precautions, including hospitalization if indicated, as may be required by the local health department or by the regulations of the *Department for Human Resources* [state board of health] to protect the public from infection.

Section 80. KRS 216.405 is amended to read as follows:

As used in KRS 216.415 to 216.485, unless a different meaning appears from the context:

(1) "Applicant" means any person, group, health facility, or health service requesting certificate of need or licensure for a health facility or health service.

(2) "Board" means the Kentucky Certificate of Need and Licensure Board.

(3) "Certificate of need" means an authorization by the board to an applicant to construct, expand, or modify a health facility, or to initiate, expand or modify a health service.

(4) "Construction or modification" means the erection, building, alteration, reconstruction, modernization, improvement, extension or establishment of a health facility or service, or the purchase or acquisition of diagnostic or therapeutic equipment, the inspection and supervision thereof, and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto, which:

(a) Requires the total capital expenditure in excess of one hundred thousand dollars (\$100,000); or

(b) Will either

1. Initiate or expand the scope or type of services rendered, or

2. Increase or decrease the bed complement of a health facility or health service.

(5) "Department" means the [Kentucky] *Department for Human Resources* [of Health].

(6) "Health facility and health services" means any program, institution, place, building, or agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care to any person or persons. This shall include, but shall not be limited to health facilities and health services commonly referred to as hospitals, extended care and recuperation centers, nursing homes, personal care homes, homes for the aged and infirm, intermediate care facilities, outpatient clinics, ambulatory care facilities, emergency care centers and services, community mental health and mental retardation centers, home health agencies, health maintenance organizations and others providing similarly organized services regardless of nomenclature.

(7) "License" means an authorization to an applicant to operate a health facility or health service.

(8) "Regional health planning council" means the designated health planning body for the established regions within the Commonwealth, as provided under Public Law 89-749 and subsequent amendments.

(9) "*Comprehensive Health Planning Council*" ["State Health Planning Commission and State Health Planning Council"] means the [designated agency and] advisory council established to comply with Public Law 89-749 and subsequent amendments.

Section 81. KRS 216.425(1) is amended to read as follows:

(1) There is hereby created the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board consisting of fifteen members, to be appointed by the Governor, for the purpose of carrying out KRS 216.405 to 216.485. The board shall be appointed as follows: two members from the Kentucky

Hospital Association, two members from the Kentucky Medical Association, two members from the Kentucky Nursing Home Association, one member from the Kentucky Nurses Association, one member from the Kentucky Dental Association, and four members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three persons for each appointment to be made. The comprehensive health planning council shall nominate three persons for each of the consumer positions. The Governor shall appoint a chairman from the consumer members of the board. Members of the board shall serve for a term of four years, except that the first appointments shall be made as follows: three for a term of one year; four, a term of two years; four, a term of three years; and four, a term of four years. In event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed. The *Secretary for Human Resources* [Commissioner of Health and the Commissioner of Mental Health] shall serve in an advisory capacity to the board.

Section 82. KRS 216.770 is amended to read as follows:

(1) The nursing home and personal care home loan fund is established. Loans may be made from the fund for constructing, equipping, remodeling or re-equipping nursing homes or personal care homes.

[(2) The nursing home and personal care home loan fund board is established. The board is composed of the commissioners of health, economic security, finance and mental health. The commissioner of economic security shall be the chairman.]

Section 83. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the *Executive Department for Finance and Administration* [State Department of Health] for administrative and budgetary purposes. The board shall be composed of nine members. The *Secretary for Human Resources* [Commissioner of Health] shall be an ex officio member of the board [and secretary of the board]. The other members of the board shall be appointed by the governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky hospital association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky state medical association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large. The other four (4) members shall be practicing nursing home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky nursing home association and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

Section 84. KRS 219.021 is amended to read as follows:

(1) No person shall operate a hotel or food service establishment without first having obtained a permit to operate from the department. An application for a permit to operate any hotel or food service establishment shall be made to the department upon forms provided by it and shall contain such information as the department may reasonably require.

(2) Except as otherwise provided in subsection (4) of this section, each application for a permit to operate a hotel or food service establishment shall be accompanied by a fee of ten dollars.

(3) Upon receipt of an application for a permit to operate a hotel or food service establishment accompanied by the required fee, the department shall issue a permit if such establishment meets the requirements of KRS 219.011 to 219.081 and rules and regulations adopted by the *department* [board]. Provided; however, that food service establishments and hotels holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 219.011 to 219.081 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner; and further provided there is no change in ownership of the establishment.

(4) Private, parochial, and public school cafeterias or lunchroom facilities through the 12th grade and all facilities operated by the *Department for Human Resources* [Department of Mental Health, Department of Health], *Bureau* [Department] of Corrections and operated or licensed by the *Department for Human Resources* [of Child Welfare] shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 219.011 to 219.081 and the state food service code.

(5) Each permit to operate a hotel or food service establishment unless previously suspended or revoked shall expire on December 31, following its date of issuance, and be renewable annually upon application accompanied by the required fee of ten dollars, except as otherwise provided in subsection (4) of this section and provided the establishment is in compliance with KRS 219.011 to 219.081 and rules and regulations of the *department* [board].

(6) Each permit to operate a hotel or food service establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 85. KRS 221.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

- (1) "*Secretary*" means the *Secretary for Human Resources* ["Commissioner" means the commissioner of health];
- (2) "*Department*" means the *Department for Human Resources* [of health];
- (3) "*Food*" includes any article used by man for food, drink, confectionery or condiment, or which enters into the composition of the same whether simple, blended, mixed or compounded;
- (4) "*Frozen food locker plant*" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food and which is equipped with a chill room, sharp freezing facilities and facilities for cutting, preparing, wrapping and packaging meats and meat products, fruits and vegetables;
- (5) "*Branch frozen food locker plant*" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food after preparation for storage at a frozen food locker plant;
- (6) "*Sharp frozen*" means the freezing of food in a room in which the temperature is zero degrees (0) (Fahrenheit) or lower.

Section 86. KRS 222.011 is amended to read as follows:

In this chapter the following words shall, unless the context requires otherwise, have the following meanings:

- (1) "*Administrator*" means the person in charge of the operation of a facility, or his designee.
- (2) "*Alcoholic*" means a person suffering from alcoholism.
- (3) "*Alcoholism*" means a medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in the (a) substantial interference with an individual's social or economic functions in the community, or (b) the loss of powers of self-control with respect to the use of such beverages.
- (4) "*A person under the influence of drugs*" means a person whose powers of self-control have been substantially impaired because of the use of a drug described in KRS chapters 217 and 218 or the federal Controlled Substances Act of 1970, and regulations pursuant thereto.
- (5) "*Secretary*" means the *Secretary for Human Resources* ["Commissioner" means the Commissioner of Mental Health].
- (6) "*Department*" means the *Department for Human Resources* [Mental Health].
- [(7)] "*Director*" means the director of the division of alcohol and drug abuse.]
- [(8)] "*Division*" means the division of alcohol and drug abuse.]
- [(7)][(9)] "*Drug addict*" means any person whose use of an addictive substance has produced a condition which requires ingestion or injection of the addictive substance, or both, as a means of preventing withdrawal symptoms and of maintaining the individual's state of function.
- [(8)][(10)] "*Drug dependent person*" or "*drug abuser*" means any person who compulsively and habitually uses drugs to the extent that they injure his health and interfere with his social and economic functioning.
- [(9)][(11)] "*Facility*" means any public or private place, or portion thereof, providing services especially designed for the detoxification, treatment or rehabilitation of intoxicated persons or alcoholics.
- [(10)][(12)] "*Incapacitated*" means the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is:
 - (a) Unconscious,
 - (b) In need of medical attention,
 - (c) Likely to suffer or cause physical harm or damage property, or
 - (d) Disorderly.
- [(11)][(13)] "*Independent physician*" means a physician licensed to practice in Kentucky, other than one holding an office or appointment in any department, board or agency of the commonwealth, or in any public facility.
- [(12)][(14)] "*Juvenile*" means any person who is under the age of eighteen.
- [(13)][(15)] "*Patient*" means any person admitted to a facility.
- [(14)][(16)] "*Treatment*" means services and programs for the care and rehabilitation of intoxicated persons and alcoholics.

Section 87. KRS 222.031 is amended to read as follows:

(1) The *Department for Human Resources* [of Mental Health] is further designated to carry out the planning activities of the Commonwealth in the field of alcoholism and other drug abuse and addiction and to provide assistance to the activities of other state agencies in combating the problems of alcoholism and other drug abuse and addiction, as they may affect those state agency programs or persons under their respective charge and care.

[(2)] To initiate and implement the purposes set forth in this chapter, there is established within the Department of Mental Health a Division of Alcohol and Drug Abuse. The director shall be appointed by the

commissioner with the advice and consent of the Commission on Alcohol and Drug Problems and with the approval of the Governor. The director of the division may be any person qualified by training, research or experience in the treatment of behavioral disorders of medico-social problems or in the design, organization or administration of treatment services for persons suffering from behavioral disorders or medico-social problems.]

(3) To implement the coordination of state agencies' alcoholism programs, there is hereby established an interagency council on alcoholism which shall be composed of but not restricted to, representative from each of the following departments: *Human Resources* [Child Welfare], *Justice* [Corrections], [Economic Security], Education, [Health], Labor, [Mental Health], [Public Safety], [Tuberculosis Hospital Commission], and Personnel. The *individual* [commissioner] of each Department named to the council shall designate a representative from his department of the interagency council on alcoholism. The designated representative shall be the staff member charged with alcoholism program responsibility within that department.

(4) A coordinator shall be appointed in the *Department for Human Resources* [Division of Alcohol and Drug Abuse, Department of Mental Health] to implement the interagency council on alcoholism to conduct ongoing activities of the council to develop coordination and planning between the *Department for Human Resources* [Division of Alcohol and Drug Abuse] and [the] agencies represented on the interagency council of alcoholism.

(5) To implement the coordination of state agencies' drug programs there is hereby established an interagency council on drug abuse which shall be composed of, but not restricted to, a representative from each of the following departments: *Department for Human Resources* [Child Welfare], *Justice* [Corrections], [Economic Security], Education, [Health], Labor, [Mental Health], Public Safety] and Personnel. The Commissioner of each department named to the council shall designate a representative from his department to the interagency council on drug abuse. The designated representative shall be the staff member charged with drug abuse program responsibility within that department.

(6) A coordinator shall be appointed in the *Department for Human Resources* [Division of Alcohol and Drug Abuse, Department of Mental Health] to implement the interagency council on drug abuse to conduct ongoing activities of the council to develop coordination and planning between the *Department for Human Resources* [Division of Alcohol and Drug Abuse] and the agencies represented on the interagency council of drug abuse.

(7) The provisions of this section and KRS 222.020 and 222.035 shall be in addition to any present statutory responsibility given to state departments.

Section 88. KRS 223.010 is hereby amended to read as follows:

As used in this chapter unless the context requires otherwise:

[(1) "Board" means the state board of health;]

[(1)][(2)] "Department" means the *Department for Human Resources* [state department of health];

[(2)][(3)] "Registered sanitarian" means a person trained in the field of public health sanitation who has qualified for registration in accordance with the provisions of this chapter.

[(3)] "*Secretary*" means the *Secretary for Human Resources*.

Section 89. KRS 223.020 is amended to read as follows:

(1) The department shall appoint a sanitarian examining committee consisting of five (5) members. The *Secretary for Human Resources* [director of the division of public health sanitation of the state department of health] shall be an ex officio member. The other four (4) members shall be sanitarians who are qualified for registration under this chapter. The appointed members shall serve for terms of two (2) years and until their successors are appointed and qualify, except that when initial appointments are made under the provisions of this chapter, two (2) members' terms shall be for only one (1) year. Thereafter all appointments shall be for a period of two (2) years.

(2) The examining committee shall conduct, or cause to be conducted, examinations of applicants pursuant to minimum standards and qualifications established by the board. The examining committee shall act in an advisory capacity to the board in establishing such minimum standards and qualifications.

Section 90. KRS 311.550(9) is amended to read as follows:

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the *Department for Human Resources* [of Health and its Division of Maternal and Child Health] by KRS

Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

Section 91. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "*Department*" means *Department for Human Resources* ["*Board*" means the state board of health];

(2) "*Journeyman plumber*" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "*Master plumber*" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "*Plumbing*" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent;

[(5) "*Department*" means the state department of health;]

(6) "*Public buildings*" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(7) "*Maintenance man*" means a person employed to maintain and keep plumbing in good repair;

(8) "*Apprentice*" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(9) "*Farmstead*" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply.

Section 92. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: *An employe of the Department for Human Resources* [The director of the division of sanitary engineering in the department of health,] and three (3) other persons who shall be licensed either as master or journeyman plumbers. The *Secretary for Human Resources* [Commissioner of Health] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the *Secretary for Human Resources* [commissioner of health or the director of the division of sanitary engineering] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 93. KRS 333.020(2) and (3) are amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the meanings set forth below:

(2) "*Department*" means the "*Department for Human Resources*" [Kentucky state department of health].

[(3) "*Board*" means the Kentucky state board of health.]

Section 94. KRS 339.230(3) is amended to read as follows:

A minor who has passed his fourteenth birthday but is under eighteen years of age may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except:

(3) The Commissioner of Labor shall promulgate regulations to properly protect the life, health, safety or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment and other pertinent factors. The Commissioner of Labor in promulgating these regulations may make them more restrictive than those promulgated by the U. S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the Commissioner with respect to the regulations, the Governor shall appoint a committee of *four (4)* [six (6)] persons which shall consist of a representative from the *Department for Human Resources* [Department of Child Welfare, the Department of Economic Security], the Department of Education, the Kentucky Commission on Human Rights[,] and the Department of Personnel [and the Kentucky Commission on Children and Youth]. The regulations promulgated in accordance with this section shall be reviewed by such committee at least once each fiscal year.

Section 95. KRS 341.005 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Department" means the *Department for Human Resources* [of Economic Security].

(2) "Secretary" [Commissioner] means the *Secretary for Human Resources* [Commissioner of Economic Security] or his duly authorized representative.

(3) "Commission" means the unemployment insurance commission.

[(4) "Division" means the division of unemployment insurance in the department of economic security.]

Section 96. KRS 341.110 is amended to read as follows:

(1) In the *Department for Human Resources* [of Economic Security] there shall be an Unemployment Insurance Commission composed of the *Secretary or his duly authority representative, as ex-officio Chairman* [Commissioner of Economic Security] and two *members* [associate commissioners] appointed by the Governor.

(2) The *Secretary* [Commissioner] shall represent the state and the public [and shall be chairman of the Commission]. One *member* [associate commissioner] shall be appointed as a representative of labor and one as a representative of employers. The chairman and one other member of the Commission shall constitute a quorum.

(3) The *members representing labor and employers* [associate commissioners] shall be appointed on the basis of their merit and fitness to perform their duties and exercise the responsibilities of their offices. They shall be citizens of this state and not less than thirty years of age.

(4) The terms of each *member appointed to represent labor and employers* [associate commissioner] shall be for four years from the date of appointment and until a successor is appointed and qualified, except that appointments to vacancies shall be for the unexpired term.

(5) The compensation of the *members representing labor and employers* [associate commissioners] shall be \$4,800 *each* per annum.

Section 97. KRS 341.115 is amended to read as follows:

(1) The *Secretary* [commission] shall have the power and authority to adopt, amend, or rescind such rules and regulations as *he* [it] deems necessary or suitable for the proper administration of this chapter[, except that the commissioner may prescribe regulations where the exigencies of the situation, in his judgment, require their immediate prescription]. The commission shall determine its own organization and methods of procedure.

(2) General and special rules may be adopted, amended or rescinded by the *Secretary* [commission] only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten (10) days after filing with the secretary of state and publication in the manner which the commission prescribes. Special rules shall become effective ten (10) days after notification of or mailing to the last known address of the individuals or concerns affected thereby. Regulations shall become effective in the manner and at the time prescribed by the *Secretary* [commission].

(3) The commission shall serve as an appeals board to hear and decide appeals filed in accordance with the provisions of KRS 341.430 and shall adopt regulations governing the manner of filing appeals and the conduct of hearings and appeals consistent with the provisions of this chapter.

Section 98. KRS 341.125 is amended to read as follows:

(1) It shall be the duty of the *Secretary* [commissioner] to administer this chapter; and he shall have power and authority to make such expenditures, require such reports, make such investigations, and take such other action, not specifically assigned to the *Department for Human Resources* [Unemployment Insurance Commission], as he deems necessary for the proper administration of this chapter.

(2) The *Secretary* [commissioner] is authorized, subject to the provisions of KRS Chapters 12, 42, and 45, to appoint, fix the compensation and prescribe duties and powers of such officers and employees as may be necessary in the performance of his duties under this chapter. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The *Secretary* [commissioner] shall not employ or pay any person who is an officer or committee member of any political party organization. The *Secretary* [commissioner] may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this chapter.

(3) The salary and expenses of the *Secretary* [commissioner] and his staff shall be considered a proper cost of the administration of this chapter, to be charged to the Unemployment Compensation Administration Fund in that proportion which the cost of such services rendered in the administration of this chapter bears to the overall cost of the services rendered in the administration of the department.

(4) The *Secretary* [commissioner] shall submit to the Governor an annual report covering the administration and operation of this chapter and make such recommendations for amendments to this chapter as he deems proper.

(5) In the administration of this chapter the *Secretary* [commissioner] shall cooperate to the fullest extent possible with any agency of this state or any other state or of the United States and shall take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure for this state and its citizens all the advantages available under the provisions of the Social Security Act, as amended, that relate to unemployment compensation, the Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended, and the Federal-State Extended Unemployment Compensation Act of 1970.

Section 99. KRS 341.190 is amended to read as follows:

(1) Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as the *Secretary for Human Resources* [commissioner] considers necessary for the proper administration of this chapter. Such records shall be open for inspection and subject to being copied by the *Secretary* [commissioner] or his authorized representatives at any reasonable time and as often as necessary.

(2) The *Secretary for Human Resources* [commissioner] may require any employing unit to furnish to the division at its central office from time to time information concerning the total amounts of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker whose employment has been terminated or who has been laid off, an individual wage and hour record of each worker employed part time entitled to benefits, and other related matters, including hours worked, which the *Secretary for Human Resources* [commissioner] considers necessary to the effective administration of this chapter.

(3) All letters, reports, communications, and other matters, written or oral, from employer or worker, to the *Secretary for Human Resources* [commissioner] or any of his agents, representatives, or employees, or to the commission, or to any board or official functioning under this chapter, which have been written, sent, or made in connection with the requirements and administration of this chapter, shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no employer or employee, or his representative, testifying before the commission, the *Secretary for Human Resources* [commissioner] or any duly authorized representative thereof, shall be exempt from punishment for perjury. Information thus obtained shall not be published or be open for public inspection except to public employees in the performance of their duties, in any manner revealing or indicating the employing unit's identity, but any claimant at a hearing before the commission, the *Secretary for Human Resources* [commissioner] or his duly authorized representative, shall be supplied with information from such records to the extent necessary for the proper presentation of his claim.

Section 100. KRS 341.245 is amended to read as follows:

Subject to the provisions of KRS 56.440 to 56.550, inclusive, the *Secretary* [commissioner] is authorized and empowered to use all or any part of the funds accumulated under the provisions of KRS 341.290 and 341.295 for the purpose of acquiring suitable space for either central or district offices of the [division and the] department by way of purchase, lease, contract, or in any other manner including the right to use said funds or any part thereof to assist in financing the construction of any building erected by the commonwealth or any of its agencies wherein available space will be provided for the [division and the] department under lease or contract between the department and the commonwealth or such other agency whereby said department [and division] will continue to occupy such space, rent free, after the cost of financing such building has been liquidated.

Section 101. KRS 341.275(1) is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in section 501 (c) (3) of the U. S. Internal Revenue Code which is exempt from income tax under section 501 (a) of such code. *For the purpose of this Section "Division" shall mean the Department for Human Resources, "Commissioner" and "Commission" shall mean the Secretary for Human*

Resources.

Section 102. KRS 341.370(4) is amended to read as follows:

(4) No worker shall be disqualified under paragraph (b) of subsections (1) or (2) of this section unless the employer, within a reasonable time as prescribed by *Secretary's* [commission] regulation, notifies the *Department for Human Resources* [division] and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; Provided, however, That nothing in this subsection shall restrict the right of the *Secretary for Human Resources* [commissioner] to disqualify a worker whose employer has refused or failed to notify the *Department for Human Resources* [division] of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the *Secretary for Human Resources* [commissioner] prior to the time benefits are paid to such worker; Provided, further, That the exercise of such right by the *Secretary for Human Resources* [commissioner], in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

Section 103. KRS 341.440 is amended to read as follows:

(1) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the *Secretary* [commission] for determining the rights of the parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically, but need not be transcribed unless further appealed. No examiner, referee or member of the commission shall participate in any hearing in which he is an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the *department* [division] or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 104. KRS 341.580 is amended to read as follows:

Benefits shall be considered due and payable under this chapter only to the extent provided in this chapter and to the extent that money is available therefor to the credit of the unemployment insurance fund, and neither this state, the *Secretary*, nor [commissioner,] the department [nor the division] shall be liable for any amount in excess of such sums.

Section 105. KRS 341.600 is amended to read as follows:

(1) The *Secretary* [commissioner], the department, the commission [and the division], its personnel, or organization and funds shall constitute a continuation of the analogous provisions of the previous unemployment compensation laws of this state and the provisions of this chapter shall be considered as substituted in a continuing way for the provisions of such laws. Nothing in this chapter shall waive any payments required of any employer under any such laws.

(2) No vested right shall exist against amendment or repeal of any part of this chapter.

Section 106. KRS 439.179(3) is amended to read as follows:

(3) The jailer shall notify the *Department for Human Resources* [Bureau of Employment Security, Kentucky Department of Economic Security,] which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the fiscal court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the fiscal court during the prisoner's term, and shall be disbursed only as provided in this section; but for tax purposes they are the income of the prisoner.

Section 107. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act and Executive Orders 73-777, 73-1038, 74-47 in order that said statutes shall conform to the plan establishing and organizing the Department for Human Resources and specifically whenever the following language appears in the presently existing statutes, either expressly, impliedly or by words of reference, the language shall be changed by the Reviser of Statutes to read as follows:

(1) Unless otherwise clearly indicated in the context, make the following changes throughout all the chapters and sections of the Kentucky Revised Statutes:

"Bureau of Vital Statistics" to "Department for Human Resources";

"Division of Vital Statistics" to "Department for Human Resources";

"Commissioner of Health" to "Secretary for Human Resources";

"Commissioner of Department of Health" to "Secretary for Human Resources";

"Bureau of Veteran Affairs" to "Department for Human Resources";

"Division of Public Assistance" to "Department for Human Resources";

"Bureau of Public Assistance" to "Department for Human Resources";
 "Bureau of Economic Security" to "Department for Human Resources";
 "Department of Economic Security" to "Department for Human Resources";
 "Commissioner of Department of Economic Security" to "Secretary for Human Resources";
 "Commissioner of Economic Security" to "Secretary for Human Resources";
 "Division of Personnel Security" to "Department for Human Resources";
 "State Board of Health" to "Secretary for Human Resources";
 "Department of Health" to "Department for Human Resources";
 "Commissioner of Department of Child Welfare" to "Secretary for Human Resources";
 "Commissioner of Child Welfare" to "Secretary for Human Resources";
 "Department of Child Welfare" to "Department for Human Resources";
 "Commission for Handicapped Children" to "Department for Human Resources";
 "Department of Mental Health" to "Department for Human Resources";
 "Commissioner of Mental Health" to "Secretary for Human Resources";
 "Commissioner of Department of Mental Health" to "Secretary for Human Resources".

(2) Unless otherwise clearly indicated by the context, where the words "Commissioner of Health" or "Commissioner of Department of Health" appear in the following chapters or sections, change them to "Secretary for Human Resources or his designee": KRS 18.300, 72.080, 72.090, 151.330, 152.570, 152.690, 202.010, 205.600, Chapter 211, 212.025, 212.870, 214.155, 216.313, 216.315, 216.803, Chapter 217C, Chapter 219, Chapter 221, Chapter 222, Chapter 223, 318.074, 318.080, Chapter 333, 334.140, 339.340, 402.170, 402.180.

(3) Unless otherwise clearly indicated by the context, where the words "State Board of Health" appears in the following chapters or sections change them to "Department for Human Resources": KRS 211.300, 211.870, 212.120, 212.130, 212.210, 212.230, 212.245, 212.370, 212.430, 212.550, 212.570, 212.600, 212.610, 212.660, 212.710, 212.725, 212.880, 213.122, 213.180, 213.190, 213.195, 214.010, 214.020, 214.034, 214.036, 214.990, 215.100, 215.140, 215.160, 215.170, 215.210, 215.220, 215.270, 215.280, 215.340, 215.355, 215.560, 215.570, 217.809, 217.812, Chapter 218A.

(4) Unless otherwise clearly indicated by the context, when the words "Division of Vital Statistics" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 199.570, 213.080, 213.090, 213.140, 213.150, 213.160, 213.170, 213.180, 213.190, 213.195, 213.210, 213.330, 213.340, 213.350, 213.990.

(5) Unless otherwise clearly indicated by the context, where the words "Division of Vital Statistics of the State Department of Health" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 213.122, 213.330, 213.340.

(6) Unless otherwise clearly indicated by the context, where the words "Director for the Division of Vital Statistics" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 213.050, 213.180.

(7) Unless otherwise clearly indicated by the context, where the words "Commissioner of the Department of Mental Health" appear in the following chapters or sections, change them to "Secretary for Human Resources": KRS Chapter 202, Chapter 210.

(8) Unless otherwise clearly indicated by the context, where the words "Commissioner of Mental Health" appear in the following chapters and sections, change them to "Secretary for Human Resources or his designee": KRS Chapter 202, Chapter 210, 222.011, 222.020, 222.420.

(9) Unless otherwise clearly indicated by the context, where the words "Department of Mental Health" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 67.082, 222.021, 222.250, 222.280, 222.410, 222.420, 396.180, Chapter 202, Chapter 210.

(10) Unless otherwise clearly indicated by the context, where the words "State Board of Health" appear in the following chapters or sections, change them to "Secretary for Human Resources": KRS 64.625, 72.255, 96.931, 158.035, Chapter 211, 212.020, 212.420, 213.122, 213.110, 213.180, 213.190, 213.195, 213.320, 217.015 to 217.215, 217.380, 217.650 to 217.760, Chapter 217C, Chapter 219, 222.220, Chapter 223, Chapter 258, 311.250, 311.380, 311.390, 311.530, 311.545, 311.570, 317.440, 317.510, 317.580, Chapter 318, 327.020, Chapter 333, 336.090, 363.840, 402.140, 402.150, 402.160, 402.340.

(11) Unless otherwise clearly indicated by the context, when the words "Department of Health" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 67.020, 67.082, 72.080, 72.090, 72.222, 72.235, 76.268, 76.410, 98.030, 152.120, 152.570, Chapter 211, 212.025, 212.170, 212.190, 212.230, 212.240, 212.245, 212.660, 212.755, 212.830, 213.030, 213.050, 213.070, 213.080, 213.120, 213.160, 213.180, 213.190, 213.310, 213.330, 214.310, 217.015 to 217.215, 217.650 to 217.760, 217.801, 217.809, 217.812, 217.025, 217.824, Chapter 217C, Chapter 218A, Chapter 219, 221.010, Chapter 223, 224A.010, Chapter 318, Chapter 333, 338.041, 338.161, 402.130, 402.160, 402.320, 402.330, 402.340, 411.148.

(12) Unless otherwise clearly indicated by the context, where the words "Department of Economic Security and Department of Health" appear in the following chapters and sections, change them to "Department for Human Resources": KRS 205.550.

(13) Unless otherwise clearly indicated by the context, where the words "Department of Child Welfare" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 45.236, Chapter 199, Chapter 200, Chapter 208, 205.440, 214.185.

(14) Unless otherwise clearly indicated by the context, where the words "Department of Economic Security" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 61.420, 61.500, 61.645, 154.020, 199.473, 216.760, 223.170, 342.143, 342.710, 342.740, 407.190, 407.240, 407.250, 407.440, Chapter 202, Chapter 205, Chapter 195, Chapter 341.

(15) Unless otherwise clearly indicated by the context, where the words "Commissioner of Economic Security" and "Commissioner of Department of Economic Security" appear in the following chapters or sections, change them to "Secretary for Human Resources or his designee": KRS 61.645, 154.020, Chapter 195, Chapter 205, Chapter 202.

(16) Unless otherwise clearly indicated by the context, where the word "Commissioner" appears in the following chapters or sections, change it to "Secretary for Human Resources": KRS 199.011, Chapter 200, 211.160, 211.200.

(17) Unless otherwise clearly indicated by the context, where the word "Board" appears in the following chapters or sections change it to "Secretary for Human Resources": KRS 211.180, 211.184, 211.190, 216.780.

(18) Unless otherwise clearly indicated by the context, where the word "Commissioner" appears in the following chapters or sections, change it to "Department": KRS 211.260.

(19) Unless otherwise clearly indicated by the context, where the words "Commissioner of the Department of Economic Security" appears in the following chapters or sections, change them to "Secretary for Human Resources": KRS 407.190, 407.240, 407.250, 407.440, Chapter 195, Chapter 205.

(20) Unless otherwise clearly indicated by the context, where the word "Board" appears in the following chapters or sections, change it to "Department": KRS 211.300, 211.305, 211.310, 211.320, 211.325, 211.330.

(21) Unless otherwise clearly indicated by the context, where the word "Commissioner" appears in the following chapters or sections, change it to "Secretary": KRS 152.570, Chapter 195, Chapter 199, Chapter 200, Chapter 202, Chapter 205, Chapter 208, Chapter 210, Chapter 211, 216.313, 216.320, 216.347, 216.357, Chapter 221, Chapter 222, Chapter 341.

(22) Unless otherwise clearly indicated in the context, where the word "Board" appears in the following chapters or sections, change it to "Secretary": KRS 211.260, 217.015 to 217.215, 217.650 to 217.760, Chapter 217C, Chapter 219, Chapter 223, Chapter 318, Chapter 333.

(23) Unless otherwise clearly indicated by the context, where the word "Division" appears in the following chapters or sections, change it to "Department": KRS 199.370, 213.180, 213.190, 213.195, Chapter 341.

(24) Unless otherwise clearly indicated by the context, where the word "Commission" appears in the following chapters or sections, change it to "Department for Human Resources": KRS 200.460, 200.470, 200.480, 211.550, 211.560, 215.014, 341.030, 341.040, 341.080.

(25) Unless otherwise clearly indicated by the context, where the word "Institute" appears in the following sections, change it to "Department for Human Resources": KRS 211.820.

(26) Unless otherwise clearly indicated by the context, where the words "Dental Division of the Department of Health" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 211.430.

(27) Unless otherwise clearly indicated by the context, where the words "Division of Public Assistance" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 45.235.

(28) Unless otherwise clearly indicated by the context, where the words "Bureau of Public Assistance" or "Bureau of Employment Security" or "Division of Unemployment Insurance" appear in the following chapters or sections, change them to "Department for Human Resources": KRS Chapter 205, Chapter 341.

(29) Unless otherwise clearly indicated by the context, where the word "Bureau" appears in the following chapters or sections, change it to "Department": KRS Chapter 205.

(30) Unless otherwise clearly indicated by the context, where the words "Commissioner of Child Welfare" or "Commissioner of the Department of Child Welfare" appear in the following chapters or sections, change them to "Secretary for Human Resources or his designee": KRS Chapter 195, Chapter 200, Chapter 208, Chapter 199.

(31) Unless otherwise clearly indicated in the context, where the word "Commissioner" and "Commission" appears in the following chapters or sections, change to "Secretary": KRS 341.145 to 341.245, 341.260, 341.270, 341.282, 341.300, 341.350, 341.380, 341.400, 341.410, 341.500, 341.510,

341.530, 341.540, 341.570, 341.700.

(32) Unless otherwise clearly indicated by the context, where the words "Department and its Division of Maternal and Child Health" appear in the following chapters or sections, change them to "Department for Human Resources": KRS 311.550.

(33) In KRS 216.435 change "State Planning Council" to "Comprehensive Health Planning Council".

(34) In KRS Chapter 340 change "Department of Labor" to "Department for Human Resources", change "Commissioner" to "Secretary", change "Commissioner of Labor" to "Commissioner for Human Resources".

Section 108. The following sections of the Kentucky Revised Statutes are hereby repealed: 36.320, 72.215, 72.230, 157.222 (effective July 1, 1974), 195.010, 195.030, 195.050, 195.060, 195.070, 195.080, 195.090, 195.100, 195.110, 195.150, 195.160, 195.170, 195.190, 195.200, 199.810, 199.820, 199.830, 199.850, 199.860, 199.870, 199.890, 200.400, 200.410, 200.420, 200.430, 200.440, 200.450, 205.160, 205.190, 205.530, 205.570, 205.580, 210.020, 210.030, 210.065, 210.075, 211.020, 211.030, 211.035, 211.041, 211.051, 211.060, 211.070, 211.080, 211.106, 211.510, 211.520, 211.525, 211.540, 211.565, 211.570, 211.610, 211.620, 211.630, 211.650, 211.810, 211.830, 211.860, 211.880, 215.510, 219.061, 222.020, 341.170.

Section 109. This Act confirms the establishment and reorganization of the Department for Human Resources effected by the Governor under Executive Orders 73-777, 73-1038, 74-47 and related reorganization Executive Orders.

VII - PROGRAM CABINETS

Section 1. A new section of KRS Chapter 12 is created to read as follows:

There is established within State Government the following Program Cabinets:

1. Cabinet for Development.
2. Cabinet for Education and Arts.
3. Cabinet for Public Protection and Regulation.

Section 2. A new section of KRS Chapter 12 is created to read as follows:

There is hereby established the Office of Secretary for Development Cabinet, Office of Secretary for Education and Arts Cabinet and Office of Secretary for Public Protection and Regulation Cabinet. Each of these Offices shall be headed by a Secretary appointed by the Governor, and each Secretary shall be Chairman of the related Cabinet.

Section 3. A new section of KRS Chapter 12 is created to read as follows:

There is hereby established in the Office of Secretary for Public Protection and Regulation the position of Ombudsman. The Ombudsman shall be appointed by the Governor on the advice of the Secretary for Public Protection and Regulation. The Ombudsman shall provide a review of complaints by citizens with regard to services rendered by the agencies in the Cabinet for Public Protection and Regulation that cannot be resolved through normal administrative remedies. The files of the Ombudsman shall be made available to the Secretary in order to guide the correction of operational difficulties and other causes of citizen complaint.

Section 4. A new section of KRS Chapter 12 is created to read as follows:

The Cabinets established in Section 1 of this Article shall be composed of Departments, Boards and Commissions as follows:

I. Cabinet for Development

- A. Department of Agriculture
- B. Department of Commerce
- C. Department of Fish and Wildlife Resources
- D. Department of Parks
- E. Kentucky Historical Events Celebration Commission
- F. State Fair Board
- G. Kentucky Geological Survey.

II. Cabinet for Education and the Arts

- A. Kentucky Arts Commission
- B. Department of Education
- C. The Kentucky Authority for Educational Television
- D. Kentucky Heritage Commission
- E. Kentucky Historical Society
- F. Department of Library and Archives.

III. Cabinet for Public Protection and Regulation

- A. Department of Alcoholic Beverage Control

- B. Department of Banking and Securities
- C. Department of Insurance
- D. Department of Labor
- E. Department of Mines and Minerals
- F. Kentucky Registry of Election Finance
- G. Public Service Commission
- H. Kentucky Quarterhorse and Appaloosa Commission
- I. Kentucky State Racing Commission
- J. Kentucky Trotting Commission
- K. Kentucky Board of Tax Appeals.

Section 5. A new section of KRS Chapter 12 is created to read as follows:

(1) The Secretary of each Cabinet shall:

(a) Be a member of the Governor's Cabinet and shall serve as the Governor's liaison in carrying out the responsibilities for overall direction and coordination of the departments, boards and commissions included in the related Cabinet;

(b) Recommend to the Governor desired reorganization affecting the related Cabinet;

(c) Advise the Governor on executive actions, legislative matters and other steps that may be desirable for better program service;

(d) Evaluate and pass upon all budget requests originated by the departments, boards and commissions within such related Cabinet;

(e) Advise the Governor on the appointment of Commissioners and heads of units included in the related Cabinet, except for those whose election or selection is otherwise provided for by law.

(2) Each Secretary is authorized to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the related Cabinet.

(3) Each Secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the Secretary to perform the functions of his office.

Section 6. A new section of KRS Chapter 152 is created to read as follows:

The Secretary for Development shall have responsibility for the administration and coordination of Appalachian Regional Development programs and Economic Development Administration programs.

Section 7. This Act confirms the establishment and organization of the Cabinet and Office of the Secretary for Development, for Education and the Arts, and for Public Protection and Regulation effected by the Governor under Executive Orders 73-817, 73-818, 74-1 and related reorganization Executive Orders.

VIII - GENERAL AND MISCELLANEOUS PROVISIONS

A. Bonds of State Officers

Section 1. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large (except the governor and lieutenant governor), the heads of departments *and cabinets* of the state government, the adjutant general, the members of the public service commission, the members of the state fair board and fish and wildlife resources commission, and the members of the Kentucky board of tax appeals and the alcoholic beverage control board, shall each give bond. The amounts of the bonds shall be fixed by the governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the commonwealth the governor may increase the penal sum of any bond or require a renewal thereof with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$ 10,000
Attorney General	10,000
State Treasurer	300,000
<i>Secretary for Development</i>	10,000
Commissioner of Agriculture	10,000
<i>Secretary for Education and the Arts</i>	10,000
Superintendent of Public Instruction	50,000
Auditor of Public Accounts	25,000
Clerk of Court of Appeals	10,000
Adjutant General	10,000
Commissioner for [of] Finance and Administration	100,000
Commissioner of Revenue	50,000
<i>Secretary of Transportation</i>	50,000
Commissioner of Highways	50,000

<i>Secretary of Justice</i>	25,000
Commissioner of Corrections	25,000
Commissioner for <i>Health Services</i> [of Health]	10,000
Commissioner of Labor	5,000
Commissioner for <i>Land</i> [of Natural] Resources	10,000
State Librarian	5,000
Commissioner of Mines and Minerals	5,000
Commissioner of Alcoholic Beverage Control	10,000
Commissioner of Banking and Securities	25,000
<i>Secretary for Natural Resources and Environmental Protection</i>	10,000
Commissioner of Insurance	50,000
Commissioner of <i>Vehicle Regulation</i> [Motor Transportation]	10,000
Commissioner of Fish and Wildlife Resources	5,000
<i>Secretary for Human Resources</i>	20,000
<i>Commissioner for Environmental Quality</i>	10,000
<i>Secretary for Public Protection and Regulation</i>	10,000
Commissioner for <i>Social Insurance</i> [of Economic Security]	20,000
Member of Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate Member of Alcoholic Beverage Control Board	5,000

B. Department of Library and Archives

Section 1. KRS 171.125 is amended to read as follows:

As used in KRS 171.130 to 171.306, unless the context requires otherwise, "Department" means the Department of *Library and Archives* [Libraries].

Section 2. KRS 171.410 is amended to read as follows:

(1) "Records" means all books, papers, maps, photographs, and other documentary materials, regardless of physical form or characteristics, made or received by any agency of the state government in pursuance of the state law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein.

(2) "Department" means the Department of *Library and Archives* [Finance].

(3) "Commission" means the state archives and records commission.

Section 3. The Reviser of Statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act and Executive Orders 73-425 and 74-13 transferring the Archives and Records function and division from the Department of Finance to the Department of Libraries and redesignating that agency as the "Department of Library and Archives" and specifically changing the reference "Department of Libraries" to "Department of Library and Archives" whenever it appears in KRS Chapter 12, 43, 171.

C. Department of Parks

Section 1. A new section of KRS Chapter 148 to be numbered KRS 148.022 is created to read as follows:

(1) The Department of Parks shall administer and operate the outdoor recreation programs of the State and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the Department for administrative purposes.

Section 2. This Act confirms the assignment of functions to the Department of Parks effected by the Governor under Executive Orders 73-578 and 73-485.

D. Department of Commerce

Section 1. A new section of KRS Chapter 152 to be numbered KRS 152.545 is created to read as follows:

The Commission and its staff shall be attached to the Department of Commerce for all administrative purposes, under the supervision and direction of the Commissioner of Commerce.

Section 2. A new section of KRS Chapter 154 to be numbered KRS 154.025 is created to read as follows:

The Authority shall be attached to the Department of Commerce for administrative purposes subject to the following conditions:

(a) The Authority shall make all policy as it pertains to loans: the applicants, presentation to the Authority commitments, closing documents, servicing, extensions, and all other actions necessary to make and collect loans.

(b) The Department of Commerce shall administer the payroll and other expenses of the Authority in accord with paragraph (a) above, provide space, and other necessary services at cost.

(c) The Executive Department for Finance and Administration shall keep separate trust and agency accounts for the loan fund and the interest received fund. The Department of Commerce shall charge the interest received fund for the expenses of the Authority on a periodical basis.

(d) The Executive Director shall be appointed or dismissed only with the approval of the Authority.

Section 3. This Act confirms assignment of functions to the Department of Commerce effected by the Governor under Executive Order 73-485.

E. Kentucky Energy Council

Section 1. A new section of KRS Chapter 152 is created to read as follows:

(1) There is hereby created the Kentucky Energy Council composed of the Commissioner of Commerce, Commissioner of Mines and Minerals, Secretary of Transportation, Secretary for Natural Resources and Environmental Protection, Chairman of the Public Service Commission and such other members as may be appointed by the Governor for terms not to exceed four (4) years. The Governor shall designate the Chairman.

(2) The Council shall have the following responsibilities and functions:

(a) To prepare an inventory of energy needs for the Commonwealth of Kentucky and contingency plans for meeting such needs;

(b) To develop major programs to educate the public on energy conservation practices;

(c) To investigate problems referred to it by the general public concerning energy shortages and seek solutions from any available public or private sources;

(d) To review the conservation practices of all state agencies in their operations, including construction of public buildings and program activities;

(e) To recommend research and development efforts which will contribute to the integrity and adequacy of Kentucky's energy resources with particular emphasis given to recommendations for research and development for utilization of coal resources including gasification and liquefaction, and pollution control devices which will facilitate utilization of coal;

(f) To prepare recommendations which will facilitate needed construction with minimum environmental harm and procedures established for the siting and certification of energy production and transmission facilities;

(g) To recommend procedures for energy resource statements on all projects similar to the existing systems of environmental impact statements;

(h) To review state building codes to insure a minimum standard of insulation and heat saving or shielding devices including ventilation to reduce the need for mechanical air conditioning;

(i) To review utility rates, tax rates, license fees and other regulatory or revenue-raising practices for their impact on energy consumption;

(j) To perform such other duties as assigned by the Governor.

(3) The staff of the Council shall be provided as directed by the Governor. The Governor shall designate an administrator for the Council who shall have authority over all staff functions and who shall perform such other duties as directed by the Governor in relation to energy programs mandated or authorized by federal or state law or regulation.

(4) The Council shall report directly to the Governor.

Section 2. This Act confirms assignment of functions relating to the Commonwealth's energy program effected by the Governor under Executive Orders 73-577 and 73-970.

F. Department of Public Information

Section 1. A new section of KRS Chapter 153 to be numbered KRS 153.021 is created to read as follows:

All personnel, functions, authority and responsibility for public information, public relations and related services of State government shall be vested in the Department of Public Information except those performed by agencies exempt by law or by Executive Order.

Section 2. This Act confirms the reorganization of public information services of state government effected by the Governor under Executive Order 73-923.

Section 3. KRS 147.010, 147.020, 147.030, 147.040, 147.050 and 147.060 are hereby repealed.

G. Judicial Advisory Council

Section 1. A new section of KRS Chapter 12 is created to read as follows:

There is hereby established the Governor's Judicial Advisory Council. The Council shall be composed of lawyers appointed by the Governor. The Governor shall designate the Chairman. The Council shall advise the Governor on legal matters and perform such other duties as may be assigned by the Governor.

Section 2. This Act confirms the establishment of the Governor's Judicial Advisory Council effected by the Governor under Executive Order 72-153.

H. Units Within Agencies

Section 1. This Act confirms the establishment, abolishment and reorganization of the following units within agencies to the extent that said agencies are not otherwise covered in this Act:

(a) Department of Revenue. Abolishment of Division of Internal Security (Executive Order 72-147); establishment of Division of Selective Excise Tax and Division of Sales and Severance Tax (Executive Order 73-447).

(b) Department of Personnel. Reorganization of Department with a Division of Classification and Compensation, Division of Recruitment and Examination, Division of Administrative Control, Division of Emergency Employment (Executive Order 72-300).

(c) Department of Mines and Minerals. Establishment of Division of Explosives and Blasting (Executive Order 72-399).

(d) Department of Education. (i) Reorganization of planning and research functions under an Office of Planning and Research with a Division of Planning, Division of Research, Division of Evaluation, Division of Development, Division of Dissemination (Executive Order 72-462).

(ii) Reorganization of the Program Supporting Services Unit, Bureau of Vocational Education with a Division of Curriculum Development, Division of Resources Development, Division of Occupational Information Services, Division of Personnel Development (Executive Order 72-523).

(iii) Reorganization of Bureau of Instruction to include, in addition to other divisions, a Division of Program Development, Division of Instructional Media, Division of Supervision - Accreditation - Organization, Division of Compensatory Education (Executive Orders 72-667, 72-668).

(iv) Reorganization of Bureau of Administration and Finance with a Division of Finance, Division of Administrative Services, Division of Statistical Services, Division of Buildings and Grounds, Division of Pupil Transportation, Division of Computer Services (subject to the provisions of KRS 42.030(1) and Executive Order 73-425), Division of Surplus Property (Executive Order 73-597).

(e) Kentucky Heritage Commission. Director is State Liaison Officer responsible for implementing the National Historical Preservation Act in the Commonwealth (Executive Order 72-869).

(f) Department of Labor. Establishment of a Division of Education and Training for the occupational safety and health program (Executive Order 73-134).

(g) Department for Natural Resources and Environmental Protection. Designated as State agency responsible for processing and review of environmental impact statements required under Section 102(2)(c) of the National Environmental Policy Act (Executive Order 73-164).

(h) Department of Parks. Reorganization of the Department with an Office for Administrative Services, a Division of Camping and Boat Docks, Division of Parks and Museums, Division of Recreation, Division of Accommodations, Division of Rangers, Division of Food Services, Division of Maintenance, Division of Construction, Division of Planning (Executive Order 73-578).

(i) Department of Library and Archives. Reorganization of the Department with a Division of Public Services, Division of Technical Services, Division of Field Services, Division of Special Services, Division of Archives and Records Services, the State Board for the Certification of Librarians, the State Archives and Records Commission (Executive Order 74-13).

(j) Department of Justice. Organization of the Bureau of Training with a Division of Law Enforcement Training, Division of Corrections Training, Division of Judicial Training (Executive Order 74-21).

Section 2. Each of the units cited in Section 1 shall have the duties and responsibilities assigned to it as set forth in the Executive Orders cited until changed by the head of the agency to which the unit is assigned, subject to the provisions of KRS Chapter 12.

Section 3. The Reviser of Statutes shall not incorporate the provisions of Section 1 above in the Kentucky Revised Statutes.

I. State Clearinghouse Function

Section 1. A new section of KRS Chapter 42 is created to read as follows:

(1) Any Department, Board, Commission, Agency, Advisory Council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for Federal funds, aids, loans, or grants shall file a summary notification of the intended application with the Executive Department for Finance and Administration in accordance with the existing A-95 procedures.

(2) When as a condition to receiving such Federal funds, the Commonwealth of Kentucky is required to match the Federal funds, a statement shall be filed with the notice of intent or summary of the application stating:

- (a) the amount and source of state funds needed for matching purposes;
- (b) the length of time such matching funds shall be required;

- (c) the growth of the program;
- (d) how the program will be evaluated;
- (e) what action will be necessary should the Federal funds be cancelled, curtailed, or restricted; and
- (f) such other financial and program management data as required by the Executive Department for Finance and Administration.

(3) Any application for Federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the Commissioner of the Executive Department for Finance and Administration or his designated agent prior to its filing with the appropriate Federal agency.

(4) When any Federal funds, aids, loans, or grants are received by any Department, Board, Commission, or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the Executive Department for Finance and Administration; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.

(5) The Commissioner of the Executive Department for Finance and Administration may refuse to issue his warrant for the disbursement of any state or federal funds from the State Treasury as the result of any application which is not approved pursuant to this Section, or in regard to which the statements or reports required by this Section were not filed.

(6) The Commissioner of the Executive Department for Finance and Administration shall be responsible for the orderly administration of this Section and for issuing the appropriate guidelines and regulations for its implementation.

Section 2. This Act confirms the reorganization of the State Clearinghouse function effected by the Governor under Executive Orders 72-1168, 72-1169, 73-425, 73-966.

J. State Planning Committee

Section 1. A new section of KRS 147.070 to 147.120 is created to read as follows:

As used in KRS 147.070 to 147.120 the term "Governor's Cabinet" shall mean the "Governor's Executive Cabinet" and such other persons as the Governor may designate to compose the membership of the "State Planning Committee." The Governor shall serve as Chairman of the State Planning Committee, the Secretary of the Cabinet shall serve as Vice Chairman, and the Executive Director of the Office for Policy and Management shall serve as Secretary.

Section 2. This Act confirms the reorganization of the State Planning Committee effected by the Governor under Executive Order 73-370.

K. Spindletop Foundation

Section 1. A new section of the Kentucky Revised Statutes is created to read as follows:

(1) There is hereby created an agency of state government to be known as Spindletop Foundation.

(2) The functions of Spindletop Foundation shall be:

(a) To hold in trust for state government the land and buildings conveyed back to the Commonwealth by Spindletop Research, Inc., as of June 29, 1973.

(b) To manage said property for state government.

(c) To pursue the original purpose of the dedication of the Spindletop property, which was the development of a research park.

(d) To act as a research broker in assisting state government to meet its research needs and to perform such function also upon request from local governments and private organizations.

(e) To hold and assign such contracts and grants as may from time to time be negotiated between the Foundation and state and local government agencies, Federal government agencies, private foundations, and other organizations.

(3) The Spindletop Foundation is authorized to contract for such services as may be required to accomplish its functions and to employ such staff as may be required, subject to the approval of the Governor.

(4) The Spindletop Foundation shall be under the direction of a Board of Trustees which shall include the Secretary of the Cabinet, the Executive Director of the Office for Policy and Management, the Commissioner of the Department of Commerce, the Chairman of the Kentucky Council of Economic Advisers, the Executive Director of the Council on Public Higher Education, a representative of the University of Kentucky, a representative to be designated by the Legislative Research Commission, and four persons to be appointed annually by the Governor. The Secretary of the Cabinet shall serve as Chairman, and the Executive Director of the Office for Policy and Management shall serve as Secretary.

Section 2. This Act confirms the establishment of the Spindletop Foundation effected by the Governor under Executive Order 73-601.

L. Departmental Major Units

Section 1. All units of the following agencies as set forth in the cited Executive Orders shall be considered major organizational units, persons appointed to head the units shall be major assistants (deputies) to the head of the agency and shall assist the agency head in making and carrying out policy and appointments

to said positions shall be made in accordance with the provisions of KRS 12.050: Executive Department for Finance and Administration (as set forth in Executive Orders 72-1168, 73-425, 73-918); Department for Natural Resources and Environmental Protection (as set forth in Executive Orders 73-1, 73-1087); Department of Transportation (as set forth in Executive Orders 73-288, 73-543); Department of Justice (as set forth in Executive Orders 73-805, 74-12, 74-21); Department for Human Resources (as set forth in Executive Orders 73-777, 73-1038, 74-47); Cabinet for Development (as set forth in Executive Order 73-817); Cabinet for Education and the Arts (as set forth in Executive Order 73-818); Cabinet for Public Protection and Regulation (as set forth in Executive Order 74-1); Department of Mines and Minerals (as set forth in Executive Order 72-399); Department of Education (as set forth in Executive Orders 72-462, 72-523, 72-667, 72-668, 73-597); Department of Personnel (as set forth in Executive Order 72-300); Department of Labor (as set forth in Executive Order 73-134); Department of Revenue (as set forth in Executive Order 73-447); Department of Insurance (as set forth in Executive Order 73-448); Department of Commerce (as set forth in Executive Order 73-485); Department of Parks (as set forth in Executive Order 73-578); Department of Public Information (as set forth in Executive Order 73-923); Department of Library and Archives (as set forth in Executive Order 74-13).

Section 2. Bureau heads, office heads and division directors shall be major assistants (deputies) to the department head, except that, if a division director's duties are non-policy making that position may be brought under the merit system by the process set forth in KRS 18.150.

SB 172, AN ACT relating to administrative procedure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13.080 is amended to read as follows:

As used in KRS 13.080 to 13.125, (1) "Administrative Body" means each State board, bureau, commission, department, division, authority, [or] officer, *or other entity*, except the legislature and the courts, authorized by law to make regulations.

(2) "Subcommittee" means Administrative Regulation Review Subcommittee.

(3) "Regulation" means each statement of general applicability issued by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior regulation, but does not include

(a) statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public, or

(b) declaratory rulings, or

(c) intradepartmental memoranda.

(4) "*Affirmative consideration*" means that an administrative body must either adopt suggestions or recommendations regarding a regulation or issue a concise statement setting forth the reasons for not adopting suggestions or recommendations regarding a regulation.

[(4) Nothing in KRS 13.080 to 13.125 shall prevent any administrative body, in its discretion and subject to the approval of the Legislative Research Commission, from filing, and the Legislative Research Commission from distributing in accordance with KRS 13.080 to 13.125, any rates, tariffs or other documents not required by KRS 13.080 to 13.125 to be filed.]

(5) Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective.

Section 2. KRS 13.085 is amended to read as follows:

(1) Except as provided in Subsection (2) [(5)] of *this section* [KRS 13.087,] no regulation made by any administrative body after *the effective date of this Act* [June 16, 1972], shall become effective until [thirty days] after an original and *five* [four] duplicate copies of the regulation are *forwarded to* [filed in] the office of the Legislative Research Commission, and:

(a) *the proposed regulation has been published in the Administrative Register as required by Section 4 of this Act; and*

(b) *a public hearing is held, if requested, by a person having an interest in the subject matter, within 30 days following publication of proposed regulation, as provided by subsection (4) of this section; Provided, However, That if no public hearing is requested within 30 days of publication the regulation shall be submitted to the Administrative Regulation Review Subcommittee;*

(c) *the proposed regulation has been reviewed by the Administrative Regulations Review Subcommittee as required by section 3 of this Act; and*

(d) *the proposed regulation is reviewed by the appropriate interim or standing committees of the General Assembly, if required by section 3 of this Act.*

[the regulation has been reviewed by the Administration Regulation Review Subcommittee, except that when the administrative body finds that an emergency exists, and such finding is concurred in by the Governor, by written endorsement upon the original regulation, a regulation may become effective immediately upon being filed in the office of the Legislative Research Commission. The General Assembly hereby declares that it is the state policy that emergencies are held to a minimum and are rarely found to exist.]

(2) *The requirements of subsection (1) of this section shall not apply when the administrative body finds that an emergency exists, and the Governor issues an executive order that the regulation become effective immediately upon being filed in the office of the Legislative Research Commission. A regulation so filed shall expire at the end of 120 days, during which time the proposed regulation may be processed in accordance with Section 2 of this Act if the administrative body desires it to become permanent. The General Assembly hereby declares that it is the state policy that emergencies are held to a minimum.*

(3)[(2)] *Each proposed regulation submitted to the Legislative Research Commission shall include a citation of the authority pursuant to which it, or any part of it, was adopted, a brief statement which sets forth the necessity for issuing the regulation, a summary of the functions sought to be implemented by the regulation, and the place and manner in which interested persons may present their views.*

(4) *If within 30 days following publication of the text of a proposed regulation a request is received by the administrative body from a person having an interest in the subject matter of the regulation to offer comment upon the proposed regulation, the administrative body shall fix a date, time and place for a hearing, open to the public, on the proposed regulation. Every hearing shall be conducted in such a manner so as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so; Provided, However, every hearing shall be conducted so as to be completed within 60 days from the date the proposed regulation was first published in the Administrative Register. No transcript need be taken of the hearing unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. Following the hearing the administrative body shall give affirmative consideration to all written and oral statements submitted regarding the proposed regulation. The administrative body shall then forward to the Legislative Research Commission a copy of the regulation as originally published in the Register accompanied by a statement indicating whether any changes have been made in the original wording and by a statement summarizing the comments submitted to the administrative body at the hearing.*

(5)[(3)] *The Legislative Research Commission shall cause to be endorsed on the original and duplicate copies of each regulation submitted [filed] the time and date of the filing thereof and shall maintain a file of such regulations for public inspection, with suitable indexes.*

Section 3. KRS 13.087 is amended to read as follows:

(1) *There is hereby created a permanent subcommittee of the Legislative Research Commission to be known as the Administrative Regulation Review Subcommittee. The subcommittee shall be composed of three members, no more than two of whom shall be members of the same political party. The Legislative Research Commission shall appoint from the membership of the General Assembly, the members of the subcommittee for terms of two years, and the members so appointed shall elect one of their number to serve as chairman [and shall name one member so appointed to serve as chairman]. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.*

(2) *The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).*

(3) *Any professional, clerical or other employees required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).*

(4) *Prior to filing, all regulations shall be submitted to the Administrative Regulation Review Subcommittee to determine if the regulation[s] conforms to the statutory authority under which it was [they were] promulgated and if it [they] carries [carry] out the legislative intent of the statutory authority under which it was promulgated. The subcommittee's finding that a regulation does not conform to the statutory authority or carry out the legislative intent shall be reported to the promulgating administrative body and to the Director of the Legislative Research Commission. In the event the subcommittee determines that a regulation, other than an emergency filing approved by the Governor, does not conform to the statutory authority, or does not coincide with the legislative intent, the subcommittee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the subcommittee to the Director of the Legislative Research Commission. The subcommittee shall act on a regulation submitted to the Legislative Research Commission [filed] within 30 days of the submission [filing] of the regulation.*

(5) The promulgating administrative body may revise a regulation to comply with the subcommittee's objections, and may return the revised regulation to the subcommittee, or it may return the regulation, with the subcommittee's notation attached, without change. The Legislative Research Commission shall immediately accept a regulation as filed if it is not objected to by the subcommittee [or when it is returned by the promulgating agency under this section].

(6) *In the event an administrative body returns a regulation, objected to by the subcommittee, to the Legislative Research Commission without change, the regulation shall be referred by the Director to the standing committee of the House of Representatives and Senate or to the Interim Committee with appropriate jurisdiction as determined by the Rules of the House and Senate then in effect or in effect during the most recent session of the General Assembly. The standing committees of the House and Senate or the interim committee to which a regulation is referred under this section shall review the regulation in the same manner as did the Administrative Regulation Review Subcommittee and shall not expand their review beyond determining whether the regulation conforms to the statutory authority under which it was promulgated and whether the regulation carries out the legislative intent of the statute it seeks to implement. In the event the standing committee of the House and Senate or the Interim Committee determines that a regulation does not conform to the statutory authority under which it was promulgated, or does not coincide with the legislative intent of the statute it seeks to implement the standing committees or the interim committee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and the Director shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the standing committees or by the interim committee to the Director of the Legislative Research Commission. The standing committees or interim committee shall act on a regulation submitted in accordance with this section within 30 days of the date the administrative body returns the regulation.*

[(6) In the event the subcommittee determines that a regulation carrying an emergency filing does not conform to the statutory authority, or does not coincide with the legislative intent, the subcommittee shall attach to the regulation a written notation of its position, including a statement of the reasons therefor.]

(7) *The promulgating administrative body may revise a regulation to comply with the subcommittee's interim or standing committee's objections, and may return the revised regulation to said subcommittee or committee, or may return the regulation with the subcommittee's interim or standing committee's notation attached, without change. The Legislative Research Commission shall immediately accept the regulation as filed.*

(8)[(7)] The subcommittee shall report monthly to the Legislative Research Commission all action taken on administrative bodies' regulations. *The Director of the Legislative Research Commission shall report to the Commission all action taken by the standing committee or by the interim committee.*

(9)[(8)] All regulations objected to by the subcommittee *and by the standing committees or interim committee* and not revised by the promulgating administrative body [and all emergency filed regulations carrying a statement of objection] together with the notations of the subcommittee's *and the standing committee's or interim committee's* objection shall be transmitted by the Director [Commission] to the clerk of the Senate and the clerk of the House of Representatives on or before the first day of each regular session of the General Assembly. The clerk of the Senate and the clerk of the House of Representatives shall lay all regulations so transmitted before the Senate and the House of Representatives, respectively, for such action as the respective legislative bodies may determine to be appropriate.

Section 4. KRS 13.096 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish and distribute the regulations filed by administrative bodies in a manner which will accommodate changes in regulations and allow distribution of any topical or organizational part of the regulations as well as all of them. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) *There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of proposed regulations filed in accordance with section 2 of this Act. Every regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by section 2 of this Act.*

(3)[(2)] The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service *and the Administrative Register*. All fees paid to the Commission for *these publications* [this service] shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.

Section 5. A new section of KRS Chapter 13 is created to read as follows:

(1) The power vested in every administrative body to adopt regulations shall be uniform and shall be confined to the direct implementation of the functions and duties assigned to an administrative body by the General Assembly, or by Executive Order.

(2) All grants of authority to adopt regulations inconsistent with this provision are hereby repealed and the Legislative Research Commission is hereby directed to identify and to draft legislation for introduction in the 1976 General Assembly repealing all provisions of the Kentucky Revised Statutes in conflict with this section.

Section 6. A new section of KRS Chapter 13 is created to read as follows:

(1) Each administrative body shall file within one (1) year of the effective date of this Act, in accordance with the provisions of KRS Chapter 13, all regulations which were adopted by such administrative body prior to the effective date of this Act, and which are still effective and all regulations which were adopted by such administrative body prior to the effective date of this Act and which do not become effective until after the effective date of this Act.

(2) All regulations filed prior to the effective date of this Act, whether or not they shall have become effective, are rescinded effective one year after the effective date of this Act.

Section 7. KRS 13.081 is repealed.

Section 8. The effective date of this Act shall be July 1, 1974.

The Committee on Counties and Special Districts reported **HB 319**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT relating to fire protection districts and volunteer fire department districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 75 is created to read as follows:

(1) At the end of each fiscal year, the board of trustees of fire protection districts and volunteer fire department districts shall employ a certified public accountant to audit the books and records of the district. The certified public accountant selected shall have no personal interest in the financial affairs of the board of trustees or in the financial affairs of the officers or employees of the district.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. Two copies of this report shall be transmitted to the board of trustees and one copy shall be transmitted to each county court clerk within the fire protection or volunteer fire department district for the purpose of having the audit as part of the public records which shall, be open for public inspection. A copy shall be posted for not less than thirty days.

(3) The actual expense of the audit report and the expense of the audit conducted shall be paid from the funds of the fire protection or volunteer fire department district.

The Committee Amendment to **HB 319** is as follows:

Amend printed copy of House Bill 319 page 2, after line 4, by adding the following: "(4) Fire protection and volunteer fire department districts not exercising their taxing authority pursuant to KRS 75.040 shall be exempt from the provisions of this Act.";

and by adding after the above subsection the following: "(5) This Act shall not relieve any fire protection or volunteer fire department district from complying with the provisions of KRS 424.220."

Calendar

HB 618, HB 624, HB 632, HB 641, HB 639 with Committee Substitute attached thereto, **HB 201** with Committee Substitute attached thereto, **HB 399, HB 408, HB 427** with Committee Amendment attached thereto, **HB 579** with Committee Amendment attached thereto, **HB 625, HB 640, HB 138, HB 450, HB 537, SB 137, HB 107** with Committee Amendment attached thereto, **HB 445, HB 460** with Committee Amendment attached thereto, **HB 541** with Committee Amendment attached thereto, **HB 567, HB 570, and HB 190** with Committee Substitute attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Wible moved the adoption of the following **HR 57**:

On the roll call the vote was yeas 83 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 0.

HR 57 was adopted.

Senate Message

Announcing passage of **SB 125**, **SB 127**, **SB 151**, **SB 179**, **SB 206**, **HB 65** with Amendment, and **HB 249** with Amendment.

Motions, Petitions and Communications (continued)

Representative Priddy moved that **HB 401** be returned to the Committee on Highways and Traffic Safety.

On the roll call the vote was yeas 60 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Givhan, Graves, Hardin, Harris, Hislope, Holbrook, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, O'Brien, Pearman, Paxton, Priddy, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible. Nays 0.

The motion that **HB 401** be returned to the Committee on Highways and Traffic Safety was adopted.

Representative Swinford moved that **HB 289** be recommitted to the Committee on Cities. Agreed.

Representative Hughes moved that **HB 585** be transferred from the Committee on Judiciary to the Committee on Counties and Special Districts. Rejected.

Orders of the Day

Representative Swinford moved that consideration of **HB 304**, **HB 386**, and **HR 30** be deferred and that they retain their position in Orders of the Day.

HB 21, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graves moved the adoption of the Committee Substitute for **HB 21**. Agreed.

Representative Graves moved the adoption of the Committee Amendment No. 1 to the Committee Substitute for **HB 21**. Agreed.

Representative Graves moved the adoption of the following Floor Amendment No. 3 to the Committee Substitute for **HB 21**.

Amend printed copy of Committee Substitute to House Bill 21 page 6, line 24, by adding after "official" the following: ", except the county court clerk, sheriff, and jailer of counties containing a city of the first

class,";

and on page 15, line 23, by adding after "more" the following: ", except counties containing a city of the first class";

and on page 17, line 20, by changing "10" to "12";

and on page 31, line 19, by adding after "of" the following: "*county clerks, sheriffs, and jailers in counties containing a city of the first class and of*";

and on page 32, line 1, by adding after "Each" the following: "*county clerk, sheriff, and jailer in counties containing a city of the first class and each*";

and on line 12, by adding after "each" the following: "*county clerk, sheriff, and jailer in counties containing a city of the first class and of each*";

and on page 33, line 1, by adding after "each" the following: "*county clerk, sheriff, jailer in counties containing a city of the first class and each*";

and on page 80, line 12, by adding a comma after "53", and by adding "58", after "57", and by deleting "67" and inserting in lieu thereof "70";

and on lines 14, 15, 16, 17, and 18 by deleting those lines in their entirety;

and on line 19 by changing "74" to "73".

Agreed.

Representative Graves moved that **HB 21**, by way of Committee Substitute as amended, be placed upon its passage.

Representative King moved that the vote by which Floor Amendment No. 3 to the Committee Substitute for **HB 21** was adopted be reconsidered.

Representative Lindsay moved that the motion to reconsider the vote on Floor Amendment No. 3 to the Committee Substitute to **HB 21** be laid on the table.

On the roll call the vote was yeas 56 - Arnold, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Davis, DeMarcus, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hancock, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Kafoglis, Kareem, Kenton, Kleier, Lewis, Lindsay, Maynard, McBrayer, McBride, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Stephens, Swinford, Troop, Wells, G. White, J. White, Wible, Yates. Nays 22 - Allen, E. Brown, Bruce, Crupper, Denham, Dietz, Gay, Hardin, Hellard, Isler, King, Loudon, Mann, Mason, Pearman, Schmaedecke, Sharpe, Smith, Stone, Thomas, Turner, Van Horn.

The motion that the motion to reconsider the vote on Floor Amendment No. 3 to the Committee Substitute to **HB 21** be laid on the table was adopted.

On the roll call vote was yeas 39 - Benson, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, Burch, Chandler, Clapp, Clarke, Donnermeyer, Dunn, Graves, Holloway, Hopkins, Hurst, Imes, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lindsay, Mann, Maynard, McBride, Nett, O'Brien, Priddy, Quickert, Richardson, Romines, Schmaedecke, Swinford, Watkins, Wells, G. White, Wible. Nays 54 - Adams, Allen, Arnold, Behsear, R. Brown, Bruce, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Foster, Freeman, Gay, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hughes, Isler, King, Lewis, Little, Loudon, Mason, May, McBee, McBrayer, Morgan, Overstreet, Pearman, Paxton, Reynolds, Roberts, Robinson, Sale, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Thomas, Troop, Turner, Van Horn, Vincent, J. White, Whitfield, Yates.

HB 21, by way of Committee Substitute as amended, was defeated.

Representative King moved that the vote by which **HB 21**, by way of Committee Substitute as amended, was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 27 - Adams, Allen, Crupper, Davis, Dawahare, Denham, Dietz, Gay, Hardin, Harris, Hislope, Isler, King, Louden, Mason, May, McGill, Pearman, Roberts, Sale, Sharpe, Smith, Stone, Turner, Van Horn, Vincent, J. White. Nays 48 - Benson, Blandford, Blume, Bowles, Brewer, E. Brown, Burch, Chandler, DeMarcus, Dunn, Foster, Freeman, Graves, Hancock, Head, Holloway, Hopkins, Hughes, Hurst, Imes, Kafoglis, Kareem, Kenton, Lewis, Lindsay, Mann, Maynard, McBrayer, McBride, Morgan, Nett, Overstreet, Priddy, Quickert, Rattliff, Richardson, Robinson, Schmaedecke, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Wells, G. White, Wible, Yates.

The motion that the vote by which **HB 21**, by way of Committee Substitute as amended, was defeated be reconsidered and said motion be postponed indefinitely was rejected.

Representative Swinford moved that consideration of **SB 87** and **HB 96** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 125 with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of the Committee Substitute for **HB 125**. Agreed.

Representative Schmaedecke moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute to **HB 125**:

Amend printed copy of Committee Substitute for House Bill 125 page 15, line 26, by placing brackets before the word "and"

and on page 16, line 1, by closing bracket after the word "deposit"

Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 3 to the Committee Substitute to **HB 125**:

Amend printed copy of Committee Substitute House Bill 125 page 37 by adding a new section:-as follows:

Section 46. The provisions of this act shall apply only to Counties containing Cities of the First, Second Class and Urban-County Governments.

Agreed.

Representative Quickert moved the adoption of the following Floor Amendment No. 4 to the Committee Substitute to **HB 125**:

Amend printed copy of Committee Substitute for House Bill 125 page 28, line 19, to delete "may:" and to insert in lieu thereof, "or the landlord may terminate the rental agreement upon fourteen days notice, however, the tenant may immediately vacate the premises."

and, on page 28, lines 20 through 26, inclusive, to delete the same.

and, on page 29, lines 1 through 3, inclusive, to delete the same.

Agreed.

Representative Stephens moved the adoption of the following Floor Amendment No. 1 to **HB 125**:

Amend printed copy of House Bill 125 page 37, by inserting at the end of the bill the following: Section 46. "A new section of KRS Chapter 383 is created to read as follows:

In no way will this Act violate or supersede any contract in writing between landlord and tenant."

On the roll call the vote was yeas 40 - Adams, Allen, Bennett, Brewer, R. Brown, Crupper, Davis, DeMarcus, Denham, Foster, Guenther, Hancock, Hardin, Hellard, Holbrook, Holloway, Hurst, Imes, Little, Loudon, Mason, McBride, O'Brien, Pearman, Richardson, Roberts, Robinson, Sale, Sharpe, Smith, Stephens, Stewart, Stone, Troop, Turner, Vincent, Watkins, Wells, G. White, Whitfield. Nays 42 - Benson, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, Burch, Chandler, Clapp, Clarke, Dietz, Donnermeyer, Dunn, Freeman, Gay, Graves, Hopkins, Isler, Kafoglis, Kareem, Kenton, King, Kleier, Lewis, Mann, Maynard, McBee, McGill, Nett, Paxton, Priddy, Quickert, Reynolds, Romines, Schmaedecke, Siemens, Swinford, Thomas, Van Horn, Wible, Yates.

The Floor Amendment No. 1 to **HB 125** was rejected.

Representative Kenton moved that **HB 125**, by way of Committee Substitute as amended, be placed upon its passage.

On the roll call the vote was yeas 70 - Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Givhan, Graves, Guenther, Head, Hellard, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Schmaedecke, Siemens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Wells, G. White, Whitfield, Wible, Yates. Nays 19 - Adams, Allen, Brewer, Crupper, Foster, Hancock, Hardin, Holbrook, Hurst, Little, Pearman, Roberts, Sharpe, Smith, Stephens, Van Horn, Vincent, Watkins, J. White.

HB 125, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 125**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 166** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 444 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmaedecke moved the adoption of the following Floor Amendment No. 1 to **HB 444**:

Amend printed copy of House Bill 444 page 1, line 5, after the word "package", bracket the "period (.)" add a comma and the words "under the supervision of an adult."

Agreed.

Representative Schmaedecke moved that **HB 444** as amended be placed upon its passage.

Representative Robinson moved the adoption of the following Floor Amendment No. 2 to **HB 444**:

Amend printed copy of House Bill 444 page 2, following line 2, by inserting the following:

"Section 3. A new section of KRS Chapter 243 is created to read as follows:

No malt beverage retailer's license shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries, including but not limited to a grocery store, general store, or a delicatessen where staple groceries are sold for consumption off the premises."

On the roll call the vote was yeas 37 - Allen, Arnold, Bowles, Brewer, R. Brown, Bruce, Burch, Clapp, Crupper, Dawahare, DeMarcus, Foster, Freeman, Graves, Hardin, Hislope, Imes, Lewis, Little, Mason, May, Overstreet, Pearman, Rattliff, Reynolds, Richardson, Robinson, Sale, Sharpe, Smith, Stewart, Stone,

Swinford, Vincent, G. White, J. White, Wible. Nays 45 - Bennett, Benson, Blandford, Blume, Blythe, E. Brown, Chandler, Dietz, Donnermeyer, Dunn, Hancock, Holbrook, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Louden, Mann, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Priddy, Quickert, Romines, Schmaedecke, Schmidt, Siemens, Stephens, Thomas, Turner, Van Horn, Watkins, Wells, Whitfield, Yates.

The Floor Amendment No. 2 to **HB 444** was rejected.

Representative Stone moved that **HB 444** be laid on the table.

On the roll call the vote was yeas 36 - Allen, E. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Givhan, Guenther, Hislope, Imes, Lewis, Lindsay, Mason, Nett, O'Brien, Overstreet, Paxton, Reynolds, Richardson, Roberts, Robinson, Sale, Smith, Stewart, Stone, Swinford, Troop, Vincent, G. White, J. White, Wible. Nays 43 - Bennett, Benson, Blandford, Blume, Blythe, Bowles, Burch, Dietz, Donnermeyer, Dunn, Foster, Graves, Hancock, Holbrook, Holloway, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Little, Louden, Mann, McBee, McBrayer, McBride, McGill, Morgan, Priddy, Schmaedecke, Schmidt, Siemens, Stephens, Thomas, Turner, Van Horn, Wells, Whitfield, Yates.

The motion that **HB 444** as amended be laid on the table was rejected.

On the roll call the vote was yeas 49 - Allen, Bennett, Benson, Blandford, Blume, Blythe, Bowles, E. Brown, R. Brown, Burch, Clarke, Dawahare, Dietz, Donnermeyer, Dunn, Freeman, Graves, Guenther, Hancock, Holloway, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Louden, Mann, Mason, McBee, McBrayer, McBride, McGill, Morgan, Priddy, Quickert, Romines, Schmaedecke, Schmidt, Siemens, Stephens, Turner, Van Horn, Watkins, Wells, Whitfield, Yates. Nays 38 - Arnold, Beshear, Bruce, Chandler, Clapp, Crupper, Davis, DeMarcus, Denham, Givhan, Harris, Hellard, Hislope, Holbrook, Hopkins, Imes, Lewis, Lindsay, Little, May, Nett, O'Brien, Overstreet, Paxton, Reynolds, Richardson, Roberts, Robinson, Sale, Smith, Stewart, Stone, Swinford, Troop, Vincent, G. White, J. White, Wible.

HB 444 as amended was passed and the title agreed to.

Representative Schmaedecke moved that the vote by which **HB 444** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 476** be deferred and that it retain its position in Orders of the Day. Agreed.

HR 25 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of **HR 25**.

HR 25 was adopted by voice vote.

HB 40, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sale moved the adoption of the Committee Substitute for **HB 40**. Agreed.

Representative Sale moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 40**:

Amend printed copy of Committee Substitute to House Bill 40 page 2, line 14, by bracketing "of subsection (2)".

Agreed.

Representative Sale moved that **HB 40**, by way of Committee Substitute as amended, be placed upon its passage.

On the roll call the vote was yeas 81 - Adams, Allen, Arnold, Bennett, Benson, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Harris, Head, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 0.

HB 40, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 40**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 2, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Isler moved the adoption of the Committee Substitute for **HB 2**. Agreed.

Representative Isler moved that **HB 2**, by way of Committee Substitute, be placed upon its passage.

Representative Kafoglis moved that **HB 2** be recommitted to the Committee on Health and Welfare.

On the roll call the vote was yeas 46 - Adams, Arnold, Beshear, Blandford, Blume, Bowles, E. Brown, R. Brown, Burch, Chandler, Clarke, Davis, Dawahare, Denham, Dunn, Foster, Gay, Head, Hellard, Holbrook, Hopkins, Imes, Kafoglis, Karem, Lewis, Mason, May, Maynard, McBrayer, O'Brien, Overstreet, Quickert, Rattliff, Reynolds, Richardson, Sale, Stephens, Stone, Swinford, Troop, Turner, Vincent, Watkins, Wells, Wible, Yates. Nays 36 - Allen, Benson, Blythe, Brewer, Bruce, Clapp, Crupper, DeMarcus, Dietz, Donnermeyer, Givhan, Hardin, Harris, Hislope, Hughes, Isler, Kenton, King, Little, Loudon, Mann, McBride, McGill, Morgan, Pearman, Roberts, Robinson, Schmaedecke, Schmidt, Sharpe, Smith, Stewart, Thomas, Van Horn, J. White, Whitfield.

The motion that **HB 2** be recommitted to the Committee on Health and Welfare was adopted.

Representative Swinford moved that consideration of **HB 237** and **HB 262** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 271, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sale moved the adoption of the Committee Amendment No. 1 to **HB 271**. Agreed.

Representative Sale moved that **HB 271** as amended be placed upon its passage.

On the roll call the vote was yeas 90 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 0.

HB 271 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 271** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 320, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved the adoption of the Committee Amendment No. 1 to **HB 320**. Agreed.

Representative Givhan moved that **HB 320** as amended be placed upon its passage.

Representative McBride moved that **HB 320** as amended be laid on the table. Rejected.

Representative Paxton moved that consideration of **HB 320** as amended be postponed indefinitely.

On the roll call the vote was yeas 36 - Beshear, Blume, Blythe, Bruce, Chandler, Clapp, Clarke, Davis, Denham, Dunn, Foster, Graves, Hardin, Hellard, Hopkins, Isler, Kidd, Lewis, May, McBrayer, McBride, McGill, Morgan, Overstreet, Paxton, Priddy, Quickert, Reynolds, Romines, Sharpe, Thomas, Wells, J. White, Whitfield, Wible, Yates. Nays 44 - Adams, Bennett, Blandford, Bowles, Brewer, E. Brown, R. Brown, Crupper, Dawahare, DeMarcus, Freeman, Gay, Givhan, Guenther, Hancock, Hislope, Holbrook, Holloway, Hughes, Hurst, Kafoglis, Kareem, Kenton, King, Lindsay, Little, Loudon, Mann, Mason, Maynard, Pearman, Richardson, Roberts, Robinson, Schmaedecke, Schmidt, Stephens, Stone, Troop, Turner, Van Horn, Vincent, Watkins, G. White.

The motion that consideration of **HB 320** be postponed indefinitely was rejected.

Representative Overstreet moved that **HB 320** as amended be recommitted to the Committee on Business Organizations and Profession.

On the roll call the vote was yeas 47 - Arnold, Beshear, Blume, Brewer, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Denham, Donnermeyer, Dunn, Foster, Freeman, Graves, Hardin, Head, Hellard, Hopkins, Isler, Kidd, Lewis, Little, Mann, Mason, May, McBrayer, McBride, McGill, Morgan, Nett, Overstreet, Paxton, Priddy, Quickert, Rattliff, Roberts, Sharpe, Smith, Stewart, Thomas, Watkins, Wells, J. White, Whitfield, Yates. Nays 38 - Adams, Allen, Bennett, Blandford, Blythe, Bowles, E. Brown, R. Brown, Crupper, Dawahare, DeMarcus, Gay, Givhan, Guenther, Hancock, Harris, Holbrook, Holloway, Hughes, Hurst, Kafoglis, Kareem, Kenton, King, Lindsay, Loudon, Maynard, Pearman, Richardson, Schmidt, Stephens, Stone, Troop, Turner, Van Horn, Vincent, G. White, Wible.

The motion that **HB 320** as amended be recommitted to the Committee on Business Organizations and Professions was adopted.

Representative Overstreet moved that the vote by which **HB 320** as amended was recommitted to the Committee on Business Organizations and Professions be reconsidered and said motion be postponed indefinitely. Agreed.

HB 368, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the Committee Amendment No. 1 to **HB 368**. Agreed.

Representative Benson moved that **HB 368** as amended be placed upon its passage.

Representative Schmidt moved the adoption of the following Floor Amendment No. 2 to **HB 368**:

Amend printed copy of House Bill 368 page 141, line 23, by inserting after "339.410," the following:

"344.510, 344. 520, 344.530,"

Representative Kidd moved that Floor Amendment No. 2 to **HB 368** be laid on the table.

Representative Kidd moved that the motion to table Amendment No. 2 to **HB 368** be withdrawn. Agreed.

On the roll call the vote was yeas 17 - Adams, Allen, Bowles, E. Brown, Foster, Gay, Guenther, King, Lindsay, Little, Robinson, Schmaedecke, Schmidt, Sharpe, Turner, J. White, Yates. Nays 39 - Benson, Beshear, Blume, Burch, Chandler, Clarke, Dunn, Hellard, Holbrook, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Lewis, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Paxton, Quickert, Reynolds, Richardson, Romines, Sale, Siemens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Wible.

The Floor Amendment No. 2 to **HB 368** was rejected.

Representative Holbrook moved that **HB 368** as amended be recommitted to the Committee on Judiciary.

On the roll call the vote was yeas 41 - Adams, Allen, Brewer, Bruce, Crupper, Davis, Donnermeyer, Freeman, Gay, Givhan, Guenther, Hardin, Hislope, Holbrook, Holloway, Hopkins, Hughes, King, Lewis, Lindsay, Loudon, May, Maynard, McGill, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Robinson, Romines, Sale, Schmaedecke, Schmidt, Stone, Turner, Van Horn, Vincent, Wells, Whitfield, Yates. Nays 46 - Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, R. Brown, Burch, Chandler, Dawahre, Denham, Dietz, Dunn, Foster, Graves, Hancock, Head, Hellard, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Little, Mann, Mason, McBee, McBryaer, McBride, Morgan, Nett, Paxton, Quickert, Reynolds, Richardson, Siemens, Stephens, Swinford, Thomas, Troop, Watkins, J. White, Wible.

The motion that **HB 368** as amended be recommitted to the Committee on Judiciary was rejected.

Representative Schmaedecke moved that his remarks in regard to **HB 368** be spread upon the Journal. Agreed.

Representative Schmaedecke's remarks are as follows:

I'm voting to recommit **HB 368** not, however, against Equal Rights for men and women.

HB 368 is a conglomerate of Acts, not truly designed to equate rights between men and women, but which denies basic principles long recognized and established in Kentucky law. The principle of Equal Rights for Men and Women is confused in this Act by a failure of recognition of physiological differences between men and women, and a failure to recognize the practical aspects of human affairs. **HB 368** not only confuses but also denies principles of law long established in inchoate rights relating to real property. It does, through Section 98, completely confuse the law relative to marital funds, a doctrine we established in 1972 through the enactment of the "1972 Divorce Act."

It repeals "Slander Per Se" a doctrine long established in law both in England in the United States, as well as other key statutes which ought not be repealed but which ought to be enlarged to protect both men and women.

I cannot in conscience although committed to the principle of Equal Rights, vote for this Act.

Representative Benson moved that **HB 368** as amended be placed upon its passage.

On the roll call the vote was yeas 43 - Benson, Beshear, Blandford, Blume, Blythe, Bowles, E. Brown, R. Brown, Burch, Chandler, Clarke, Dawahare, Dietz, Dunn, Graves, Head, Hellard, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Little, Mann, Mason, McBee, McBrayer, McBride, McGill, Morgan, Paxton, Quickert, Reynolds, Richardson, Siemens, Smith, Stephens, Swinford, Thomas, Watkins, Wible. Nays 46 - Adams, Allen, Arnold, Bennett, Brewer, Bruce, Clapp, Crupper, Davis, Denham, Donnermeyer, Foster, Freeman, Gay, Guenther, Hancock, Hardin, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Lewis, Lindsay, Loudon, May, Nett, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Stewart, Stone, Troop, Turner, Van Horn, Vincent, Wells, J. White, Yates.

HB 368 as amended was defeated.

HB 379, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmaedecke moved the adoption of the Committee Substitute for **HB 379**.

Representative Schmaedecke moved that consideration of **HB 379** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 395 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 82 - Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 1 - Kidd.

HB 395 was passed and the title agreed to.

Representative Pearman moved that the vote by which **HB 395** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 398**, **HB 489** and **HB 503** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 521 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hughes moved that **HB 521** be placed upon its passage.

On the roll call the vote was yeas 44 - Allen, Arnold, Bennett, Benson, Blandford, R. Brown, Bruce, Burch, Chandler, Dawahare, DeMarcus, Denham, Donnermeyer, Dunn, Gay, Givhan, Graves, Guenther, Hardin, Hellard, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Loudon, Mann, Maynard, McGill, Morgan, Nett, O'Brien, Priddy, Reynolds, Romines, Sharpe, Siemens, Swinford, Van Horn, Watkins, J. White, Yates. Nays 25 - Blythe, Brewer, Crupper, Davis, Foster, Hancock, Head, Holbrook, Hopkins, Kareem, Lewis, Little, May, McBee, McBrayer, McBride, Paxton, Rattliff, Richardson, Sale, Stewart, Stone, Troop, Turner, Vincent.

HB 521 was passed and the title agreed to.

Representative Hughes moved that the vote by which **HB 521** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 8 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that consideration of **HCR 8** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 544 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siemens moved that **HB 544** be placed upon its passage.

On the roll call the vote was yeas 71 - Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Burch, Chandler, Clarke, Crupper, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Wible, Yates. Nays 3 - Allen, DeMarcus, Little.

HB 544 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 544** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 8 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved that **HCR 8** be placed upon its passage.

On the roll call the vote was yeas 71 - Allen, Arnold, Bennett, Beshear, Blandford, Blythe, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Denham, Dietz, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hardin, Head, Hellard, Hopkins, Hughes, Hurst, Imes, Isler, Karem, Kenton, King, Kleier, Lewis, Lindsay, Little, Loudon, Mason, May, Maynard, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Robinson, Romines, Sale, Schmaedecke, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible. Nays 5 - Blume, DeMarcus, Donnermeyer, Holbrook, Thomas.

HCR 8 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HCR 8** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 11 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved that **SB 11** be placed upon its passage.

On the roll call the vote was yeas 81 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmaedecke, Sharpe, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 1 - Nett.

SB 11 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 11** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 25 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved that **SB 25** be placed upon its passage.

On the roll call the vote was yeas 78 - Allen, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Burch, Chandler, Clarke, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

SB 25 was passed and the title agreed to.

SB 51 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 51** be placed upon its passage.

Representative Richardson moved the adoption of Floor Amendment No. 1 to **SB 51**.

Representative Lindsay moved that consideration of **SB 51** be deferred and that it retain its position in Orders of the Day. Agreed.

SB 105 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 105** be placed upon its passage.

On the roll call the vote was yeas 86 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Hardin, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

SB 105 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 105** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Priddy moved that the vote by which **HB 368** was defeated be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 38 - Adams, Allen, Bennett, Brewer, Bruce, Crupper, Davis, Dunn, Foster, Hardin, Hughes, Hurst, Lewis, Lindsay, Loudon, Mason, Maynard, McBrayer, Morgan, Nett, O'Brien, Priddy, Rattliff, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stewart, Stone, Turner, Van Horn, Vincent, Wells, J. White, Yates. Nays 38 - Arnold, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Burch, Chandler, Clarke, Dawahare, DeMarcus, Denham, Dietz, Graves, Hellard, Holbrook, Hopkins, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Little, Mann, McBee, McBride, McGill, Paxton, Quickert, Reynolds, Swinford, Thomas, Troop, Whitfield, Wible.

The motion that the vote by which **HB 368** was defeated be reconsidered and said motion be postponed indefinitely was rejected.

SB 126 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that **SB 126** be placed upon its passage.

On the roll call the vote was yeas 78 - Allen Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Guenther, Hardin, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kenton, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmidt, Sharpe, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 8 - Crupper, Hancock, Karem, Kidd, Lindsay, Nett, Robinson, J. White.

SB 126 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 126** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Quickert moved that the vote by which **SB 25** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that **HB 72**, with Senate Amendment attached thereto, be taken from Orders of the Day and placed upon its passage. Agreed.

Representative Blandford moved that the House concur in the following Senate Amendment to **HB 72**:

Amend printed copy of House Bill 72 on page 2, line 5, by inserting a new sentence after the period as follows:

"Such hearing shall be held within the county where the landfill is proposed."

Agreed.

On the roll call the vote was yeas 72 - Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clarke, Crupper, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Holbrook, Holloway, Hughes, Imes, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Reynolds, Richardson, Romines, Sale, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Wible, Yates. Nays 0.

HB 72 as amended was passed and the title agreed to.

Announcements

Representative Beshear moved that the rules be suspended for the purpose of withdrawing a bill. Agreed.

Representative Beshear moved that **HB 578** be withdrawn. Agreed.

The following members filed Floor Amendments: Representative Mann, Floor Amendment No. 1 to **HB 408**, Representative Swinford, Floor Amendment No. 1 to **SB 182**; Representative O'Brien, Floor Amendment No. 1 to **HB 487**; Representative DeMarcus, Floor Amendment No. 1 to **SB 135**; Representative Freeman, Floor Amendment No. 1 to **HB 471**; and Representative Freeman, Floor Amendment No. 2 to **HB 471**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and posting of Bills and Resolutions for consideration. Agreed.

Introduction of Bills and Resolutions

HB 706, by Representatives Donnermeyer, Dietz, Isler, Mann, McBee and Schmaedecke: AN ACT relating to fire fighters.

HB 707, by Representative Romines: AN ACT relating to law enforcement foundation program fund.

HB 708, by Representatives Bennett, Lewis and Van Horn: AN ACT relating to prohibit unfair practices in franchising, leasing and business agreements.

HB 709, by Representative Donnermeyer: AN ACT relating to making an appropriation to the Board of Ethics.

HB 710, by Representatives Beshear and Swinford: AN ACT relating to elections.

HB 711, by Representative Robinson: AN ACT relating to financial disclosure.

HB 712, by Representative Blandford: AN ACT relating to assessments for the promotion of the dairy industry.

HB 713, by Representative Lindsay: AN ACT relating to the acquisition of property by the Department of Fish and Wildlife Resources.

HB 714, by Representatives Romines and Siemens: AN ACT relating to dues check-off on the wages of public employees.

HB 715, by Representative Romines: AN ACT relating to deductions from wages of employees.

HB 716, by Representatives Kenton and Davis: AN ACT relating to the use of streets and highways.

HB 717, by Representative Denham: AN ACT relating to higher education scholarships.

HB 718, by Representative Quickert: AN ACT relating to providing for the creation of the position of Solicitor General for the General Assembly of the Commonwealth of Kentucky.

HB 719, by Representative Kleier: AN ACT relating to community antenna television (CATV) systems.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Cities: **HB 665**.

Appropriations and Revenue: **HB 157, HB 545**.

State Government: **HR 62, HR 65, HB 651, HB 654, HB 682, HB 691, HB 696, HB 697, SB 222, SB 230, HB 629**.

Highways and Traffic Safety: **HB 401**.

Judiciary: **HB 100, SB 135, SB 193, HB 585, HB 495**.

The Clerk announced the following Bills and Resolutions have been withdrawn from consideration:

State Government: **SB 69**.

Announcements

The following members filed Floor Amendments to bills: Representative Richardson, Floor Amendment No. 2 to **SB 51**; Representative Wible, Floor Amendment No. 2 to **HB 379**.

Representative Clarke announced a meeting of the Joint Appropriations and Revenue Committee at 12 noon, Room 305, February 28, 1974.

Representative Wible announced a meeting of the Committee on State Government, 1:00 P.M., Room 307, February 28, 1974.

A meeting of the Jefferson County Subcommittee was announced for 1:00 P.M. in the Capital Annex Cafeteria, February 28, 1974.

Representative Kenton announced a meeting of the Committee on Cities at 1:00 P.M., Room 302, February 28, 1974.

Representative Bruce announced that the meeting of the Committee on Highways and Traffic will be at 9:30 A.M. instead of 9:00 A.M.

Adjournment

Representative Swinford moved that the House adjourn until 2:00 P.M., Thursday, February 28, 1974.

On the roll call the vote was yeas 49 - Allen Arnold, Benson, Beshear, Blume, Blythe, R. Brown, Bruce, Clapp, Davis, DeMarcus, Denham, Donnermeyer, Foster, Givhan, Graves, Head, Hellard, Holbrook, Holloway, Hurst, Kafoglis, Karem, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, McBee, McBride, Morgan, Paxton, Priddy, Quickert, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Stone, Swinford, Troop, Van Horn, Vincent J. White, Wible. Nays 0.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 28, 1974

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Father John Kroger, St. James Church, Ludlow, Kentucky.

The roll was called. All present except Representatives Hinkle and Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Hinkle and Smith.

Representative Hughes moved that the reading of the Journal of February 27, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 720, by Representatives Dunn, Kleier, Nett, O'Brien, Priddy and Romines: AN ACT relating to boards of aldermen.

HB 721, by Representative Turner: AN ACT relating to coal.

HB 722, by Representatives Kenton, Donnermeyer, Gay, Isler and Karem: AN ACT relating to the creation and establishment of development authorities.

HB 723, by Representatives Kenton, Donnermeyer, Gay, Isler and Karem: AN ACT relating to the distribution of ad valorem tax revenues received by or on behalf of certain governmental agencies in development areas as defined in urban renewal and urban development statutes and in project areas as defined in the Local Development Authority Act; and pertaining to contracts which may be entered into relative to the aforementioned by cities, counties, taxing districts, and boards of education.

HR 73, by Representative Dunn: A RESOLUTION relating to a study of public school revenue sources.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 712, HCR 70.**

Appropriations and Revenue: **HB 705, HB 709, SB 179, SB 206.**

Banking and Insurance: **HB 704.**

Business Organizations and Professions: **HB 708.**

Cities: **HB 706.**

Education: **HB 717, HR 72, HJR 67, SB 125, SB 127.**

Elections and Constitutional Amendments: **HB 710, HB 711.**

Highways and Traffic Safety: **HB 716.**

Judiciary: **HB 718, HR 69, SB 151.**

Labor and Industry: **HB 714, HB 715.**

Public Utilities and Transportation: **HB 719.**

State Government: **HB 707, HB 713, HJR 71.**

Report on Enrolled Bills

The Committee on Enrollment reported **HB 72** has been examined and found correctly enrolled. **HB 72** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 72 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 533.**

Health and Welfare: **HB 652, HB 653, HB 657, HB 694, HB 695, SB 204, HB 526.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Health and Welfare: **HB 479**.

Report of Committees

The Committee on Rules reported **HJR 24**, **HB 314** with Committee Substitute attached thereto, **HB 441** with Committee Amendment attached thereto, **HB 618**, **HB 138**, **HB 408**, **HB 445**, **HB 450**, **HB 460** with Committee Amendment attached thereto, **HB 567**, **HB 640** and **HB 641** have been posted for passage in Orders of the Day, March 1, 1974.

The Committee on Rules reported **HB 136**, with Committee Substitute attached thereto, has been recommitted to the Committee on State Government for further study and analysis.

The Committee on Rules reported **HB 524** has been recommitted to the Committee on Appropriations and Revenue for fiscal study regarding present and future expense.

The Committee on Rules reported **HB 107**, with Committee Amendment attached thereto, has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 201**, with Committee Substitute attached thereto, has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 427**, with Committee Amendment attached thereto, has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 624** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 625** has been recommitted to the Committee on Judiciary for study of form and legality.

Report of Committees

The Committee on Business Organizations and Professions reported **SB 117**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 117, AN ACT relating to eligibility for a dental hygienist's license examination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.290 is amended to read as follows:

Any person of good moral character over eighteen (18) years of age who is a citizen of the United States of America, a graduate of an accredited high school, and has successfully completed a *training program* [two (2) years of training] in a school of dental hygiene that is *accredited by the Council on Dental Education of the American Dental Association and* approved by the board, shall be eligible to take the examination for the practice of dental hygiene.

The Committee Amendment to **SB 117** is as follows:

Amend printed copy of Senate Bill 117, page 1, line 3, after the word "person", delete the following: "of good moral character"

The Committee on Agriculture reported **HB 19**, with Committee Substitute attached thereto, and **HB 67**, with Committee Substitute attached thereto and Committee Amendment No. 2 and Committee Amendment No. 3 to the Committee Substitute for **HB 67** attached thereto, with the expression of opinion that the same

should pass. Ordered delivered to the Committee on Rules. (The Committee Substitute to **HB 19** is shown in Journal on January 31, 1974 at the time **HB 19** was given its first reading.)

HB 67, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

- (1) The word "authority" shall mean the water resources authority of Kentucky;
- (2) The word "department" shall mean the *Department for Natural Resources and Environmental Protection* [department of natural resources, or if said department shall be abolished, the department, board, body or commission succeeding to the principal functions thereof or to whom the powers given by KRS 146.010 to the department shall be given by law];
- (3) The word "division" shall mean the *Division of Water Resources* [division of water];
- (4) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the *Commonwealth* [commonwealth];
- (5) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;
- (6) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;
- (7) The word "floodway" shall mean that area [outside the banks of the channel] of a stream or watercourse [reasonably] necessary to carry off flood water[s] *as determined by the commissioner*;
- (8) The word "floodplain" shall mean the area in a watershed that *is subject to inundation* [was inundated during the highest flood of record];
- (9) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;
- (10) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;
- (11) The word "water resource project" or "project" shall mean any construction, development, improvement or any other activity intended to conserve and develop the water resources of the *Commonwealth* [commonwealth];
- (12) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water[.];
- (13) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either (1) is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or (2) has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;
- (14) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;
- (15) "Commissioner" shall mean the commissioner of the *Department for Natural Resources and Environmental Protection*;
- (16) "Authorized representative" shall mean an individual specifically authorized by the commissioner to act in his behalf;
- (17) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;
- (18) "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 2. A new section of KRS Chapter 151 is created to read as follows:

The commissioner shall exercise the following authority and powers:

- (1) To administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder.

(2) To conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;

(3) To adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and regulations for flood control and water resources which he deems necessary to accomplish the purpose of this chapter. Such rules and regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, and use of the reservoir and the lands lying in the floodplain downstream from the dam;

(4) To adopt, without notice or hearing, rules and regulations with respect to procedural aspects of hearings, the filing of reports and orders, the issuance of certificates of inspection, construction permits, water withdrawal permits, and other procedural matters;

(5) To issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and regulations issued thereunder;

(6) To examine and approve or disapprove applications for construction permits for the construction, enlargement, repair, or alteration of a dam;

(7) To establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of regulations as described in subsection 2(3);

(8) To make such investigations or inspections as necessary to determine the condition of a dam to insure compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;

(9) To order the suspension or revocation, after warning, of any certificate of inspection, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the certificate of inspection, construction permits, or water withdrawal permits;

(10) To order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by the provisions of this chapter.

(11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the department in carrying out the provisions of this chapter.

Section 3. KRS 151.140 is amended to read as follows:

No person, business, industry, city, county, water district, or other political subdivision shall have the right to withdraw, divert, or transfer public water from a stream, lake, ground water source or other body of water, unless such person, business, industry, city, county, water district or other political subdivision has been granted a permit by the *department* [division] for such withdrawal, diversion, or transfer of water. Provided, however, no permit shall be required *for* [and nothing herein shall interfere with] the use of water for agricultural and domestic purposes including irrigation; *and no permit shall be required if the amount of water withdrawn, diverted or transferred is less than the amount established by regulation* [and no permit shall be required for water used in the production of steam generating plants or water injected underground in conjunction with operations for the production of oil or gas].

Section 4. KRS 151.160 is amended to read as follows:

(1) *All public water withdrawn, diverted or transferred pursuant to a permit under KRS 151.140 must be recorded and a report thereof submitted to the department in a manner prescribed by the department.*

(2) *The wilful failure to keep accurate records of the withdrawal, diversion or transfer of public water or the failure to submit reports as prescribed by the department shall subject the permit holder to the provisions of KRS 151.990 and possible revocation of the permit.*

[(1) All public water withdrawn pursuant to a permit under KRS 151.140, must be recorded and a report thereof kept and sent to the division as hereinafter provided.]

[(2) Beginning July 1, 1967, all persons, business, industries, cities, counties, water districts and other political subdivisions withdrawing, diverting or transferring public water under a permit from the division, must record the amount of water withdrawn, diverted or transferred each day. Quarterly reports, on forms to be supplied by the division, indicating amounts of public water withdrawn, diverted or transferred, shall be timely submitted to the division.]

[(3) The division or any of its authorized representatives shall have the right to enter and inspect water withdrawal records at all times to determine whether such records are correct and in proper order.]

[(4) The wilful failure to keep accurate records of the withdrawal, diversion, or transfer of public water or the failure to timely submit quarterly reports upon demand by the division shall subject the permit holder to being called for a hearing before the division and possible penalties under KRS 151.990.]

Section 5. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The *department* [director of the division] shall issue a permit to the applicant if an investigation by the *department* [division] reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the *department* [division] to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the *department* [division] by the withdrawer, or by the *department* [division] when the [quarterly] reports indicate that the withdrawer is using substantially a *different amount* [less] than *permitted* [the permit amount].

Section 6. KRS 151.180 is amended to read as follows:

(1) *Except as provided in Section 10 of this Act regarding emergency situations, any person aggrieved by any order, determination, regulation, or ruling of the department may, within 30 days of the effective date of such order, determination, regulation, or ruling, make application to the commissioner for a hearing thereon.*

(2) *Upon receipt of a written petition from the petitioner pursuant to this Section, the department shall give the petitioner 30 days written notice of the time and place of the hearing, but in no case shall such hearing be held later than 60 days from the receipt of the written petition. All hearings shall be open to the public. Notice of any and all hearings shall be given at least 30 days prior to the scheduled date of the hearing by public advertisement in a newspaper of general circulation in the county affected, giving the date, time, place, and purpose of such hearing.*

(3) *In connection with the hearing, the department shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The department may administer oaths and examine witnesses. In case of refusal to obey a subpoena issued to any person, the circuit court of the county in which the person resides upon application by the department, may issue to the person an order requiring him to appear before the department, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.*

(4) *On the basis of the evidence produced at the hearing, the commissioner shall make findings of fact and conclusions of law and enter such decisions and orders, as in his opinion will best further the purposes of this chapter, and shall give written notice of such decisions and orders to the petitioner. The decision issued under this subsection shall be issued no later than 30 days following the close of the hearing by the department.*

(5) *The decision of the department shall become final and binding on all parties, subject to judicial review as provided in KRS 151.190.*

[Prior to the denial of an application for a water withdrawal permit or the issuance of a permit for amounts less than the applicant applied for, the person, business, industry, city, county, water district or other political subdivision aggrieved thereby, shall be notified by the division and given an opportunity to appear before the division and be heard. Within thirty (30) days of an order of the division denying a permit, or an order issuing a permit in amounts less than those applied for, the aggrieved person may appeal the order of the division to the circuit court of the county in which the applicant resides as provided in KRS 151.190.]

Section 7. KRS 151.220 is amended to read as follows:

The *department* [division] shall:

(1) Undertake for and as the official agency of the state, such studies and prepare such reports and recommendations as may be necessary to establish a statewide program of flood control (including major drainage), and a statewide program for the development of water resources;

(2) Study and review for the state as its official agency, all survey reports, engineering reports, and other reports concerning or affecting *water related* projects within the state which are proposed for construction by the federal government, the state government or any agency or subdivision thereof, or which will involve the expenditure of federal or state funds, and which might affect flood control or the development of water resources of the state, and to act as the official representative of the state in any representations, recommendations, or requests to congress or the general assembly concerning such projects or the priority which should be accorded them with relation to the statewide program;

(3) Make a continuous water resources study of data from other existing state or federal agencies and such other sources as may be available. From such studies, [the division with the approval of] the department shall formulate *conclusions and recommendations for use by the Commonwealth in assuring* [amendments to

present and future water resources laws, whenever necessary, to maintain] the maximum beneficial use of the water resources of the *Commonwealth* [commonwealth];

(4) Cooperate with any local, state or federal agency, or the agencies of any other state engaged or proposing to engage in any work which will affect or be affected by the functions of the *department* [division] and may lend to or receive from any such agency such financial assistance as may be necessary within the limits of authorized expenditure;

(5) Have, for flood control and water resources development purposes, jurisdiction over all streams within or bordering upon the state. *The department* [Whenever necessary, the division] shall have the authority to establish and enforce floodways along such streams;

(6) Have authority to accept and use gifts, contributions, donations and grants;

(7) *Be the official state agency for determination of stream mileage.*

[(7) Adopt, with the approval of the department, certain rules and regulations pertaining to flood control and water resources found necessary in the administration of its duties.]

Section 8. A new section of KRS Chapter 151 is created to read as follows:

(1) An application for a certificate of inspection shall be submitted by the owner when requested by the department, and the department shall examine applications for a certificate of inspection and cause an on-the-ground inspection to be made of an existing dam. The department shall then, within 60 days of the receipt of the completed application for a certificate of inspection, either grant the certificate or disapprove the request in writing, stating the reasons for disapproval.

(2) In deciding whether or not a certificate of inspection should be issued, the department shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:

(a) The proposed action will be conducted in such a way that the safety of the public is adequately provided for;

(b) All information requested by the department has been provided; and

(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.

(3) In granting a certificate of inspection, the department may impose such conditions relating to the inspection, operation, maintenance alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.

(4) The department may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories.

(5) The department may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.

(6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the department and stated on the certificate. In determining the period of inspection, the department may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

(7) The department may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the department of a revised certificate, except when the department finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the department, the new conditions shall be effective immediately.

(8) Specific guidelines for issuance and renewal of certificate of inspection shall be provided by regulations.

(9) Plans and specifications submitted to the department shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the department.

Section 9. A new section of KRS Chapter 151 is created to read as follows:

The public safety and welfare requiring it, the commissioner shall conduct a program of regular inspections of dams and reservoirs within the state. The frequency of such inspections shall be as determined by the commissioner, who may establish different inspection intervals.

Section 10. A new section of KRS Chapter 151 is created to read as follows:

(1) Whenever the department determines that any person to which a certificate of inspection has been issued has failed to comply with the conditions in said certificate or whenever the department determines that life or property are or may be endangered by the failure or incapacity of any dam, reservoir, levee, embankment, or other water barriers, or by other causes related to a dam or reservoir, levee, embankment, or other water barriers irrespective of any conditions or the lack thereof in the certificate of inspection for said

dam or reservoir, or in those instances where no certificate is required on levee, embankment or other water barriers, the department shall order the owner thereof to take such action as is necessary to render the dam, reservoir, levee, embankment, or other water barriers safe. Where the owner fails, in the judgment of the department, to take satisfactory action toward compliance with such order, or to maintain a satisfactory rate of progress toward full compliance therewith, or where in the judgment of the department, the danger to life or property will not permit delay, the department shall request that a state of emergency be declared by the governor, and upon such declaration, shall take such action as it deems necessary to render the dam, reservoir, levee, embankment, or other water barriers safe, which action may include, but is not limited to:

- (a) Taking full charge and control of the dam, reservoir, levee, embankment, or other water barriers;
- (b) Lowering the water level or emptying the reservoir;
- (c) Performing any necessary remedial or protective work at the site; or
- (d) Taking such other steps as may be necessary to safeguard life and property.

(2) The department may continue such action until the dam, reservoir, levee, embankment, or other water barriers involved is rendered safe or the emergency requiring the action has ceased. The commissioner is authorized to enter into contracts or agreements with other state, local, or federal agencies, or other persons, for work necessary to implement such necessary actions.

(3) Any person to whom an order is directed pursuant to this Section shall comply therewith immediately, but, on petition to the department, may within five (5) working days have a hearing thereon.

Section 11. A new section of KRS Chapter 151 is created to read as follows:

Whenever the commissioner takes action authorized by Section 10, the owner or owners of the dam or the dams creating the impoundment, or levee, embankment, or other water barriers at which such action was taken shall be jointly and severally liable for the costs of taking such action, including applicable overheads, and a lien in the amount of such costs shall be automatically created on all property owned by any such owner at or proximate to such dam or reservoir. The commissioner shall file an action in the circuit court having jurisdiction over any owner or the owner's property for the recovery of such costs, and may join all other owners in such action irrespective of any statutes to the contrary relating to jurisdiction or venue. Following the conclusion of such action the commissioner may make application to the court for foreclosure sale of the property to satisfy any judgment obtained by the commissioner.

Section 12. KRS 151.330 is amended to read as follows:

(1) The governor, the commissioner of *Natural Resources and Environmental Protection* [natural resources], the *secretary for finance and administration* [commissioner of finance], the commissioner of health, the commissioner of commerce, the commissioner of agriculture, the attorney general, the *secretary of the department of transportation*, the *commissioner of fish and wildlife resources*, and the *commissioner of parks*, and their respective successors in office, shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the *Commonwealth* [commonwealth] by the name of "The *Water Resources Authority* [water resources authority] of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter [and KRS chapter 146], all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) Six (6) [Four (4)] members of the authority shall constitute a quorum for the transaction of business. [Within ninety (90) days from March 8, 1966, the authority shall convene and organize.] The governor shall, by virtue of his office, be the chairman of the authority. The commissioner of *Natural Resources and Environmental Protection* [natural resources] shall, by virtue of his office, be the vice-chairman of the authority. The *secretary of finance and administration* [commissioner of finance] shall, by virtue of his office, be the treasurer of the authority.

Section 13. KRS 151.460 is amended to read as follows:

(1) It shall be the duty of the attorney general, upon the request of the *commissioner* [director], to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of this chapter, *except as provided for in Section 11 of this Act* [and KRS chapter 146].

(2) All actions for penalties and injunctive relief for violations of this chapter shall be brought in the name of the *Commonwealth* [commonwealth] of Kentucky by the attorney general in the circuit court of the county in which the applicant resides, or in the circuit court having jurisdiction of the defendant.

Section 14. KRS 151.270, 151.290, and 151.300 are repealed.

The Committee Amendment No. 2 to the Committee Substitute for **HB 67** is as follows:

Amend printed copy of House Bill 67, page 7, lines 2-3,

On line 2 remove the bracket before the word "and"

On line 3 remove the bracket after the word "with"

The Committee Amendment No. 3 to the Committee Substitute for **HB 67** is as follows:

Amend printed copy of House Bill 67, page 7, lines 7 through 10, by deleting the bracket after the word "regulation" on line 7 and by deleting the bracket after the word "gas" on line 10

The Committee on Agriculture and Revenue reported **HB 655** with Committee Amendment attached thereto, **SB 29** with Committee Amendment attached thereto, and **SB 128** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 655, AN ACT relating to strip mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.093 is amended to read as follows:

(1) On lands where the method of operation does not produce a bench (area strip mining), complete backfilling shall be required, beginning at or beyond the top of the highwall and sloped to the toe of the spoil bank at a maximum angle not to exceed the approximate original contour of the land with no depressions to accumulate water. Such backfilling shall eliminate all highwalls and spoil peaks. Whenever directed by the division, the operator shall construct in the final grading, such diversion ditches or terraces as will control the water runoff on long uninterrupted slopes. Additional restoration work may be required by the division according to regulations adopted by the department.

(2) On lands where the method of operation produces a bench (contour strip mining), terrace backfilling shall be required and performed as follows:

(a) All highwalls must be reduced or backfilled. The steepest slope of the reduced or backfilled highwall and of the outer slope of the fill bench shall be no greater than forty-five degrees (45) from the horizontal; provided, however, if the highwall is composed of solid rock and sufficient soil is not available to backfill or cover the solid rock suitable to establish vegetative cover, the department, by regulation, may make modifications to the requirements of this section;

(b) The table portion of the restored area shall be a terrace [with a slope toward the reduced highwall of not greater than ten degrees (10)];

(c) *Whenever excess spoil is placed in the head-of-the-hollow fills, it shall be compacted under regulations promulgated by the division;*

(d) *Ridge fills shall not exceed a depth of ten (10) feet;*

(e) [(c)] The restored area shall have a minimum depth of four (4) feet of fill over the floor of the pit from which the coal has been removed;

(f) [(d)] There shall be no depressions to accumulate water but lateral drainage ditches connecting to natural or constructed waterways shall be constructed whenever directed by the division;

(g) [(e)] Additional restoration work may be required by the division according to regulations adopted by the department;

(h) *On slopes twenty-eight degrees (28) or greater no operator shall construct a bench that exceeds 45 feet with the placement of spoil not to exceed twenty (20) linear feet down the natural slope from the projected outcrop to the toe of the spoil. Blasting of the highwall on slopes twenty-eight degrees (28) or greater is prohibited.*

(i) [(f)] In addition to the backfilling and grading requirements above, the operator's method of operation on steep slopes shall [may] be regulated and controlled according to regulations adopted by the department. Such regulations shall [may] limit bench widths, *shall limit the amount of overburden to be placed beyond the solid bench to forty percent (40%) or less of the material disturbed,* [control the amount of overburden to be placed beyond the solid bench,] *may* prohibit any overburden from being placed beyond the solid bench on precipitous slopes as defined by the department, or *may* require any measure whatsoever to accomplish the purpose of this chapter.

(3) An operator may propose alternative plans other than backfilling where a water impoundment is desired, if such restoration will be consistent with the purpose of this chapter. Such plans are to be submitted to the division, and if such plans are approved by the department and complied with within the time limits as may be determined by the department as being reasonable for carrying out such plans, the backfilling requirements of this chapter may be modified by the department.

(4) As determined by regulations of the department, time limits shall be established requiring backfilling, grading and planting to be kept current. All backfilling and grading shall be completed before necessary equipment is moved from the operation.

(5) If the operator or other person desires to conduct drift mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to backfill as herein provided for until such drift mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of such locations shall be described and designated on the map attached thereto.

(6) When the backfilling and grading have been completed and approved by the division, the director shall release the bond which was filed for that portion of such operation in its full amount less one hundred dollars (\$100) per acre, which shall be retained by the division until such time as the planting and revegetation is done according to law and approved by the division, at which time the director shall release the bond in the remaining amount of one hundred dollars (\$100) per acre.

Section 2. KRS 350.130 is amended to read as follows:

(1) If any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the division and the department have not been complied with within the time limits set by the division or the department or by this chapter, the division shall cause a notice of noncompliance to be served upon the operator, or where found necessary, the director shall order the suspension of a permit. Such notice or order shall be handed to the operator in person or served by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the division and the department. If the operator has not reached an agreement with the division or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the permit may be revoked by order of the department and the performance bond shall then be forfeited to the division.

(2) When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture.

(3) An operator whose mining permit has been revoked shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this chapter in respect to former permits issued him, provided, further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator has paid such sum as the department finds is adequate to reclaim such lands. The division shall not issue any additional permits to any operator who has repeatedly been in noncompliance or violation of this chapter, or who has had permits revoked on more than three occasions. *The division shall issue regulations concerning repeated noncompliance by any operator.*

Section 3. The effective date of this Act shall be July 1, 1975.

The Committee Amendment to **HB 655** is as follows:

Amend printed copy of House Bill 655, page 2, line 26, be deleting said line;

and on page 3, by deleting lines 1, 2, 3, 4, 5 and 6;

and on page 3, line 7, by deleting "(i)" and inserting in lieu thereof "(h)";

and on page 3, line 14, after the word "disturbed" by adding the following: "except where the mineral is recovered by the auger method of mining only and without blasting"

SB 29, AN ACT relating to the purchase of and payment for livestock.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS chapter 261 is created to read as follows:

(1) Payment for livestock purchased at auction shall be made on the same date of the purchase of the livestock, and the proceeds therefrom shall be deposited by the stockyard in the custodial account not later than the next banking day following the date of sale. Payment for livestock purchased at auction shall be made by cash, check, or draft. Loans shall not be made from the custodial account of any stockyard to any purchaser of livestock.

(2) It shall be the duty and responsibility of each stockyard to report to the Commissioner of Agriculture within 24 hours after having knowledge that a check or draft issued in payment for livestock has been dishonored, and it shall be the duty and responsibility of the Commissioner of Agriculture to notify all stockyards of the fact of such dishonor.

(3) Livestock shall mean livestock sold for food consumption.

(4) The Department of Agriculture shall issue regulations to carry out the provisions of this Act.

(5) Any person or stockyard that violates any provision of this Act shall be fined not less than \$250 nor more than \$500.

The Committee Amendment to **SB 29** is as follows:

Amend printed copy of Senate Bill 29, page 1, line 4,

by deleting the words "on the same date" and substituting in lieu thereof the words "within three banking days";

and on page 1, line 7, by deleting the words "the next banking day" and substituting in lieu thereof the words "three banking days".

SB 128, AN ACT relating to soybeans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 247 is created to read as follows:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of soybeans shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers and processors of soybeans in promoting and stimulating, by research, market development and education, the increased production, use and sale, domestic and foreign, of soybeans and soybean products.

Section 2. A new section of KRS Chapter 247 is created to read as follows:

As used in this Act unless the context otherwise requires:

(1) "Commissioner" means the commissioner of the department of agriculture;

(2) "Board" means the state board of agriculture;

(3) "Producer" means every person who produces soybeans and thereafter causes the same to be marketed;

(4) "New producer" means a producer who was not engaged in the business of producing soybeans at the time a referendum was conducted in accordance with the provisions of this Act;

(5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity; and

(6) "Marketing year" means from July 1 to June 30 of the following year.

Section 3. A new section of KRS Chapter 247 is created to read as follows:

No association meeting or activity undertaken in pursuance of the provisions of this Act and intended to benefit all of the producers, handlers, and processors of soybeans shall be deemed or considered illegal or in restraint of trade.

Section 4. A new section of KRS Chapter 247 is created to read as follows:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of soybeans shall be permitted by referendum to be held among such respective groups and subject to the provisions of this Act to levy upon themselves an assessment on soybeans and provide for the collection of the same for the purpose of financing or contributing towards the financing of a program of research, market development and education to increase the domestic and foreign consumption, use, sale, and markets for soybeans and soybean products.

Section 5. A new section of KRS Chapter 247 is created to read as follows:

(1) Any existing association which is fairly representative of the soybean producers of Kentucky, such as the Kentucky soybean association, may at any time after the enactment of this Act make application to the state board of agriculture on forms prescribed by such board for certification and approval for the purpose of conducting a referendum among the producers of soybean upon the question of levying an assessment under the provisions of this Act, collecting and utilizing the same for the purpose stated in such referendum. Such application forms shall include, but not be limited to, the following:

- (a) Applicant's name;
- (b) Applicant's address;
- (c) Date;
- (d) Program to be undertaken for producers;
- (e) Brief statement of how the program is to be implemented;
- (f) Referendum to be conducted on a statewide or area basis;
- (g) Proposed effective date of the program;
- (h) Geographic area, by counties, of producers to be affected by the program; and
- (i) Signature of the applicant.

(2) Upon receipt of such application, the commissioner shall publish such application through the medium of the public press in the state within 10 days of receipt thereof.

Section 6. A new section of KRS Chapter 247 is created to read as follows:

Upon being so certified by the commissioner of agriculture, such association shall thereupon be fully authorized and empowered to hold and conduct on the part of the producers of soybeans a referendum on the question of whether or not such producers shall levy upon themselves an assessment under, and subject to, and for the purpose stated in this Act. Such referendum may be conducted either on a statewide or area basis.

Section 7. A new section of KRS Chapter 247 is created to read as follows:

Any referendum conducted under the provisions of this Act may be held either on an area or statewide basis, as may be determined by such duly certified association before such referendum is called; and such referendum, on an area or statewide basis, may be participated in by all soybean producers, including owners of farms on which such soybeans are produced, and tenants and sharecroppers sharing in the proceeds of soybeans. In the referendum, individuals so eligible for participation shall vote upon the question of whether or not there shall be levied an annual assessment in the amount set forth in the call for the referendum.

Section 8. A new section of KRS Chapter 247 is created to read as follows:

The manner, conduct and management of any referendum held under the provisions of this Act shall be under the supervision and direction of the commissioner of agriculture, and any and all expenses in connection therewith shall be borne by the association conducting the referendum.

Section 9. A new section of KRS Chapter 247 is created to read as follows:

With respect to any referendum conducted under the provisions of this Act, the commissioner of agriculture shall, before calling and announcing the referendum, fix, determine and publicly announce at least 30 days before the date determined for the referendum, the date, hours and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by said producers, and the general purposes to which said amount so collected shall be applied. No annual assessment levied under the provisions of any referendum shall exceed 1/2 per bushel on the soybeans marketed in the state during a marketing year by any producer included in the group to which such referendum was submitted or by any person subsequently becoming a new producer in the area in which such referendum was held.

Section 10. A new section of KRS Chapter 247 is created to read as follows:

The hours, voting places, rules and regulations and the area within which the referendum will be conducted shall be established and determined by the commissioner of agriculture; the said referendum date, area, hours, voting places, rules and regulations with respect to the holding of the referendum shall be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least 30 days before the holding of such referendum, and direct written notice thereof shall likewise be given to each county or area agent in any county covered by such referendum. Such notice shall likewise contain a statement of the amount of the assessment proposed to be levied, which assessment in any event shall not exceed 1/2 per bushel, and shall likewise state the method by which such assessment shall be collected and how the proceeds thereof shall be administered and the purposes to which the same shall be applied, which purposes shall be in keeping with the provisions of this Act.

Section 11. A new section of KRS Chapter 247 is created to read as follows:

The commissioner of agriculture shall likewise prepare and distribute in advance of such referendum all necessary ballots for the purpose thereof and shall arrange for the necessary poll holders for conducting the referendum. Following such referendum and within 10 days thereafter the commissioner shall canvass and publicly declare the result of such referendum.

Section 12. A new section of KRS Chapter 247 is created to read as follows:

If, in such referendum called under the provisions of this Act, a majority of the eligible producers in the area in which such referendum is conducted, who vote therein, shall vote in the affirmative and in favor of the levying and collection of such assessment proposed in such referendum, then such assessment shall be collected in the manner determined and announced by the association conducting such referendum.

Section 13. A new section of KRS Chapter 247 is created to read as follows:

In the event a majority of the eligible producers in such referendum who vote therein shall vote in favor of the assessment, then the commissioner shall notify forthwith, by registered or certified mail, all persons engaged in the business of purchasing soybeans in this state, that on and after the date specified in such letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative, from the purchase price of such soybeans. The assessment so deducted shall, on or before the 15th day of the month following the end of the month in which such soybeans are sold to the purchaser, be remitted by such purchaser to the duly certified association which conducted the referendum. The books and records of all such purchasers of soybeans shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours.

Section 14. A new section of KRS Chapter 247 is created to read as follows:

There is hereby established a fund utilization committee composed of four members appointed by the certified organization; two members appointed by the association representing the largest number of soybean farmers in the state; and one member appointed by the governor's council on agriculture, or, if such council does not exist, by the governor. Such appointments shall be for terms of two calendar years and each appointing body shall promptly file with the commissioner the names of its respective appointees.

Section 15. A new section of KRS Chapter 247 is created to read as follows:

Such funds, including donations from individuals, concerns, corporations and grants from the state or governmental agencies, shall be used for the purpose of promoting and stimulating, by research, market development and education, the increased use and sale, domestic and foreign, of soybeans and soybean products. The duly certified association receiving the assessment funds shall, upon the advice and consent of the fund utilization committee, use and disburse the same as follows:

(1) Such association may first refund to itself therefrom the costs and expenses incurred in the conduct of the referendum;

(2) Such association may spend or disburse the necessary funds therefrom for administrative costs and expenses, but no more than 10 percent of the funds collected in any marketing year shall be so utilized; and

(3) From the balance remaining no less than 50 percent thereof shall be used for market development work by means of grants or contracts with any nationally recognized, soybean-grower controlled or operated group or organization, such as the American soybean association market development foundation, Hudson, Iowa.

Section 16. A new section of KRS 247 is created to read as follows:

In the event the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom such assessment shall have been levied and collected under the provisions of this Act, if dissatisfied with said assessment and the result thereof, shall have the right to demand of and receive from the treasurer of said certified association a refund of such assessment so collected from such producer; provided, such demand for refund is made in writing within 30 days from the date on which said assessment is collected from such producer.

Section 17. A new section of KRS Chapter 247 is created to read as follows:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that the producers in the referendum area representing 50 percent of the production of soybeans have indicated their dissatisfaction with the program by demanding a refund of the assessment collected from them, the commissioner shall then conduct a referendum among the producers in such area. If, upon such referendum, a majority of the producers in the area reject such program, it shall be terminated at the end of the marketing year in which the referendum for the area was conducted; otherwise, such assessment program shall continue in force and effect.

(2) If the duly certified association of soybean producers expresses in writing its desire to the commissioner to discontinue the assessment program and terminate the same, the commissioner shall within 15 days following receipt of such request convene the board to review and act on such request. The board, after reviewing such request and conducting whatever proceedings are deemed appropriate and necessary in connection with such request, may terminate the program effective at the end of the marketing year in which the board action is taken; and, in this event, the commissioner shall notify, by registered or certified mail, the purchasers of soybeans affected thereby of the termination of such program.

Section 18. A new section of KRS Chapter 247 is created to read as follows:

Whenever in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining such act, or acts or practices and obtain a restraining order and preliminary injunction against such

purchaser.

Section 19. A new section of KRS Chapter 247 is created to read as follows:

Any purchaser of soybeans who violates, or fails or refuses to comply with the provisions of this Act, shall upon conviction be fined not less than \$25 nor more than \$50 for each offense; each day of the violation, or failing or refusing to comply with the provisions of this Act shall constitute a separate offense.

The Committee on Appropriations and Revenue reported **HB 68**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 490**, **HB 497**, **HB 662**, **HB 288** with Committee Substitute attached thereto, and **HB 294** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 490, AN ACT relating to Revenue and Taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.070 is amended to read as follows:

(1) With respect to taxable years beginning after December 31, 1965, every corporation organized under the laws of this state, every corporation having its commercial domicile in this state, and every foreign corporation owning or leasing property located in this state or having one or more individuals receiving compensation in this state, except state and national banks and trust companies, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, and religious, educational, charitable and like corporations not organized or conducted for pecuniary profit, shall pay to the state an annual license tax of seventy cents on each one thousand dollars of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section.

(2) The corporation shall determine its total capital, both within and without Kentucky. The term "capital" as used in this section includes, but is not limited to, capital stock, surplus, monies borrowed for purposes other than current operating expenses and used in lieu of or in addition to invested capital and earned surplus, advances by affiliated companies, intercompany accounts, or any other items representing additional capital used and employed in the business. The term "capital stock" as used in this section, shall be deemed to have such value as is reflected on the books of the corporation whether having par value or not.

(3) The total capital, as determined under subsection (2) of this section, shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three.

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero such property shall be valued by the department under regulations promulgated by the department. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the department determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the department may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the department may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total

compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or
2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(d) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or
2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government. [or the taxpayer is not taxable in the state to which the property is delivered or shipped.]
3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the taxpayer's capital in this state, the taxpayer may petition for or the department may require:

- (a) The exclusion of any one or more of the factors;
- (b) The inclusion of one or more additional factors which will fairly measure the taxpayer's capital in this state; or
- (c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.
- (5) No corporation required to pay an annual license tax under this section shall pay less than ten dollars.

Section 2. The provisions of this Act shall apply to taxable years beginning after December 31, 1973.

HB 497, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" ["Supervisors"] means the county board of *assessment appeals* [supervisors of tax].
- (2) "Department" means the department of revenue.
- (3) "Taxpayer" means any person made liable by law to file a return or pay a tax.
- (4) "Real property" includes all lands within this state and improvements thereon.
- (5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 2. KRS 133.020 is amended to read as follows:

- (1) [Effective January 1, 1969,] T[t]he county board of *assessment appeals* [supervisors] and any panel thereof shall be composed of reputable real property owners residing in the county at least five (5) years, to be appointed by the county judge for *four year terms*.

The board shall consist of three (3) members appointed from the county at large; Provided, however, That when any city of the first, second or third class elects prior to January 1 of any year to adopt the county assessment as provided in KRS 132.285, the county judge shall appoint as one (1) of the three (3) members of this board a person who shall have been nominated in writing by the mayor of the largest city in the county using the county assessment. Should the number of appeals to the board of *assessment appeals* [supervisors] filed with the county clerk exceed one hundred (100), the county judge, with approval of the department of revenue, may appoint additional members to serve as *temporary* panels of the board. *Each panel shall consist of three members having the same qualifications as the board members.* The number of additional panels [members] shall not exceed *one (1) [three (3)]* for each one hundred (100) [additional] appeals *in excess of the*

first one hundred. The county judge shall designate one (1) of the members to serve as chairman of the board. Where additional *panels* [members] are appointed, as provided herein, the chairman of the board of *assessment appeals* shall designate one (1) member of each additional panel as chairman of the panel. A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions therefor. Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except that [all notices of increase in assessment by the board or any panel thereof shall be signed by the chairman of the board, and further that] the action of any panel shall be subject to review *and final approval* by the board. The county judge shall appoint a person having the qualifications required of the original appointee to the board to fill a vacancy resulting from any cause, but the appointee shall hold office only to the end of the unexpired term of the member replaced. The county clerk shall make sufficient copies of the order of appointment and deliver a copy to each *board member* [supervisor] within a reasonable time after his appointment.

(2) One (1) member shall be appointed initially for a two (2) year term. One member shall be appointed initially for a three (3) year term. One member shall be appointed initially for a four (4) year term. Thereafter, all appointments to the board shall be for a four (4) year term.]

(2)/[(3)] One (1) member of the board shall have extensive knowledge of real estate values. The remaining members shall be persons with general business or farming background.

(3)/[(4)] The board shall be subject to call by the county judge at any time prescribed by law.

(4)/[(5)] The *members of the county board of assessment appeals* [supervisors], and *any panel thereof*, before entering upon the discharge of their duties, shall take the following oath *to be administered by the county judge* : "You swear (*affirm*) that you will to the best of your ability discharge the duties required of you as a member of the county board of *assessment appeals* [supervisors] and that you will fix at fair cash value all property assessments brought *before you for review* [to the attention of the board] as prescribed by law."

Section 3. KRS 133.030 is amended to read as follows:

(1) The *county board of assessment appeals* [supervisors] shall convene at the county seat on the second Monday in *June* [May] in each year; except that no meeting shall be held until the tax roll has been completed and [until after] the inspection period *has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the Department of Revenue as provided by KRS 132.690 or by the department itself as provided by KRS 133.150.* All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board [of supervisors] while meeting.

(2) The first regular meeting day of the board shall be devoted to a review of the appeals filed with the county clerk as clerk of the board, *including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section,* and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of *assessment appeals* [supervisors] shall continue in session only such time as is necessary to hear appeals [and review assessments as provided in KRS 133.120]. The board shall not continue in session more than one (1) day if there are no appeals to be heard nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the department of revenue upon request of the county judge. Each *board member* [supervisor] shall be paid not less than ten (10) nor more than twenty-five dollars (\$25.00) for each day he serves, the amount to be fixed by order of the fiscal court annually prior to May 1. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the state treasury.

(4) Members of *temporary* [additional] panels of the board shall serve at the pleasure of the county judge, Provided however, That their appointment shall be limited to the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the department of revenue. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

Section 4. KRS 133.040 is amended to read as follows:

The property valuation administrator shall complete the tax roll of all property in his county before the first Monday in May of each year in accordance with law, and on or before that date he shall file with the department of revenue, on blanks to be forwarded by the department, a recapitulation of all property assessed on said tax roll with his official certificate attached thereto. Such recapitulation shall show the assessment of property by types of property and by taxing districts. The property valuation administrator shall file with the department of revenue at the same time the schedules containing a list of the intangible personal property. Within *thirty calendar days* [two (2) weeks] after receiving the recapitulation [and schedules,] the department of revenue shall direct the property valuation administrator to make *any* [the] changes that are necessary to correct the assessment. [After the property valuation administrator has made the necessary correction in assessment and records thereof, he shall return such intangible schedules to] T[t]he department of revenue[.

and it] shall preserve *all recapitulations and* [such] schedules or a photographic facsimile thereof for a period of seven (7) years from the assessment date.

Section 5. KRS 133.045 is amended to read as follows:

The tax roll shall be open for inspection in the property valuation administrator's office [from April 15 to May 1, 1954, and] for five (5) days beginning on the first Monday in *June* [May] of each year [thereafter]. In case of necessity, the department of revenue may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided herein. The property valuation administrator shall publish pursuant to KRS chapter 424, a notice as to the time of the inspection period. The cost of such notice shall be paid by the fiscal court of the county. Such notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

Section 6. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment made by the property valuation administrator may appeal to the board of *assessment appeals* [supervisors.], *however, no appeals shall be accepted by the board of assessment unless a* [A] letter or other written petition stating the reasons for appeal, *identifying the property for which the appeal is filed and stating the taxpayer's opinion of the fair cash value of the property,* shall be filed with the county clerk *within the five day period in which* [between the date] the inspection period is held [begins and the date the board of supervisors convenes]. The board of *assessment appeals* [supervisors] may review and change any assessment made by the property valuation administrator upon recommendation of the [property valuation administrator,] department of revenue, county judge, *mayor* [chief finance officer] of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the *individual properties*[y] recommended for review. If the board of *assessment appeals* [supervisors] determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) [(2)] of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. *Any property owner who has listed his property with the property valuation administrator at its fair cash value, likewise may ask the county board of assessment appeals to review the assessments of properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.*

(2) The board of *assessment appeals* [supervisors] shall hold a public hearing for *each individual taxpayer* [all] appeal[s] in protest of the *assessment by* [action of] the property valuation administrator *filed in accordance with the provisions of subsection (1) of this section,* and after hearing all the evidence, shall *fix the assessment of the property at its fair cash value* [make such changes as it deems necessary to equalize assessments]. The board shall report to the property valuation administrator any property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450 (4) [(2)], specifying a date when the board of *assessment appeals* [supervisors] will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of *assessment appeals* [supervisors] shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) *The powers of the board of assessment appeals shall be limited to those specifically granted by this section.*

(5)/[(4)] No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value *and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section* [as and when required by law, and]. *W*[w]hen the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county court clerk and the taxpayer shall be billed for any additional tax and six per cent (6%) interest from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) *Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals.*

(7)/[(5)] It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of *assessment appeals* [supervisors] and on all appeals prosecuted from its decision. *In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.*

Section 7. KRS 133.125 is amended to read as follows:

(1) The county clerk, or an authorized deputy, shall act as clerk of the board of *assessment appeals* [supervisors]; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board [of supervisors] and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board [of supervisors]. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the department of revenue within five (5) days after the adjournment of the board.

(2) After receipt of the clerk's certification of the action of the board of *assessment appeals* [supervisors], the property valuation administrator shall complete his rolls by adding to them all listings and assessments which he may have made after the rolls were open for inspection as provided in KRS 133.045 and making all adjustments ordered by the board [of supervisors], and he shall turn the rolls over to the clerk within ten (10) days after the board adjourns. Whereupon the clerk shall make a recapitulation of the assessment by taxing districts and types of property and shall submit such recapitulation to the department of revenue not later than June 20 [1] the time is extended by the department.

(3) The county clerk shall certify to the county court the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the *board members* [supervisors] for their services. On a presentation of a copy of the order, the department of finance shall draw a warrant on the state treasurer in favor of the *board members* [supervisors] and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board [of supervisors] of their county, and they shall be paid in the same manner as members of the board [of supervisors] are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board and for preparing the recapitulation in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

Section 8. KRS 133.130 is amended to read as follows:

(1) Any person claiming to be erroneously charged with any tax upon property not owned by him may, at any time not later than the next regular county court after he has received notice of the same by demand made upon him to pay the tax, offer evidence in support of the complaint to the county court of the county in which the assessment was made. If the court finds that he was not the owner of the property assessed, it may correct the same by releasing him from the payment of the tax, and the court *order exonerating the tax shall, upon delivery of a copy thereof to the property valuation administrator, constitute an order to* [shall] have the property immediately listed against the rightful owner.

(2) An appeal may be taken from any final order of the court made under this section or under KRS 133.110. The court shall certify its actions to the department of revenue and sheriff. The sheriff shall not receive credit under this section unless copies of the judgments are furnished to the department by June 1 after the judgments are entered.

Section 9. KRS 133.180 is amended to read as follows:

When the department of revenue has completed its action on the assessment of property in any county, it shall *immediately* [, not later than June 20,] certify to the county clerk the assessment and the amount of taxes due. The department of revenue shall charge the amount of taxes due from the county to the sheriff of the county. When any item of property is in process of appeal and the valuation has not been finally determined, the certification of such property shall be based on the valuation claimed by the taxpayer as the true value. The county clerk shall affix the certification to the tax books and enter it of record in the order book, and it shall be the sheriff's or collector's warrant for the collection of taxes.

Section 10. KRS 133.181 is amended to read as follows:

If the department of revenue, in making its equalization of the property in any county *in accordance with the provisions of KRS 133.150*, causes any increase or decrease to be made in the value of any property, the county court clerk shall correct the tax books to comply with the final certification of the assessment by the department. As compensation for his services, the clerk shall receive *the same compensation* [three dollars (\$3.00)] per day *that he receives for serving as clerk of the board of assessment appeals* for as many days as are necessary to make the corrections but not to exceed a total of ten (10) days. One-half (1/2) of such amounts shall be paid out of the county levy and one-half (1/2) out of the state treasury. Such sums shall be paid at the same times and in the same manner as is the clerk's compensation for preparing the tax bills under KRS 133.240 (2).

Section 11. KRS 133.215 is amended to read as follows:

The sheriff shall be entitled to *the* [a] fee *prescribed by KRS 64.090* [of twenty-five cents (25)] for serving a subpoena for the board of *assessment appeals* [supervisors]. He shall also have a *like* fee [of

twenty-five cents (25)] for serving a subpoena or notice for the Kentucky board of tax appeals regarding any proceeding for the assessment of property subject to local taxation. Said fees shall be paid out of the county levy.

Section 12. The reviser of statutes is hereby directed to delete the title "County Board of Supervisors" or "Board of Tax Supervisors" wherever it appears in the Kentucky Revised Statutes, and is directed to substitute therefor whenever a deletion is made, the title "County Board of Assessment Appeals."

Section 13. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment consisting of real property or tangible personal property, except such as is subject to assessment by the department of revenue, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess the property and shall within ten (10) days from the date the property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450 (4) [(2)].

(2) The property valuation administrator may at any time list and assess any real or tangible property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real or tangible property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450 (4) [(2)].

(3) *The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the County Board of Assessment Appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the County Judge shall notify the Chairman of the Board of Assessment Appeals of the date set for hearing and may authorize one member of the Board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky Board of Tax Appeals as provided by KRS 131.340 (2).*

(4) *Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290 (3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290 (4).*

Section 14. A new section of KRS Chapter 133 is created to read as follows:

When an appeal is taken from an assessment by the property valuation administrator, of property which the owner does not consider to be subject to taxation, it shall be the duty of the county board of assessment appeals to obtain and follow advice from the Department of Revenue relative to the taxability of such property; however, the board shall have full power and responsibility to make a determination of the fair cash value of such property.

HB 662, AN ACT relating to general appropriations to the Legislative Research Commission for the operation, maintenance, support, and functioning of the Legislative Branch of government and its agencies of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART ONE GENERAL FUND

There is appropriated to the Legislative Research Commission out of the General Expenditure Fund for the fiscal year beginning July 1, 1973, and ending June 30, 1974; for the fiscal year beginning July 1, 1974 and ending June 30, 1975; and for the fiscal year beginning July 1, 1975 and ending June 30, 1976; the following sums:

I. GENERAL ASSEMBLY

A. Legislative Sessions.

1973-1974-----	\$ 69,000
1974-1975-----	\$ 99,810
1975-1976-----	\$ 900,815

Includes the publishing of the Acts and Journals. Any unexpended balance remaining at the close of the 1974-1975 fiscal year shall not lapse, but shall continue into the 1975-1976 fiscal year.

B. Monthly Expenses of Legislators.

1974-1975-----	\$ 662,400
1975-1976-----	\$ 514,667

Includes monthly expense allowance authorized by KRS 6.213.

C. Interim Committees.

1974-1975-----	\$ 338,400
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1975-1976-----\$ 350,550

Includes the expenses of interim operation of the House and Senate standing committees as subcommittees of the Legislative Research Commission as contemplated by the House and Senate Rules and under the authority of the Legislative Research Commission to appoint subcommittees pursuant to KRS Chapter 7. Any unexpended balance remaining at the close of the 1974-1975 fiscal year shall not lapse, but shall continue into the 1975-1976 fiscal year.

D. Electronic Data Processing.

1974-1975-----\$ 103,300

1975-1976-----\$ 97,100

Any unexpended balance remaining at the close of the 1974-1975 fiscal year shall not lapse, but shall continue into the 1975-1976 fiscal year.

E. Legislative Interns.

1975-1976-----\$ 75,000

For the costs of maintaining the legislative interns program during the 1976 session of the General Assembly.

F. Facilities Improvements.

1974-1975-----\$ 50,000

1975-1976-----\$ 50,000

For the cost of improvements and equipment as may be approved and authorized by the Legislative Research Commission. Any unexpended balance remaining at the close of the 1974-1975 fiscal year shall not lapse, but shall continue into the 1975-1976 fiscal year.

I. TOTAL GENERAL ASSEMBLY

1973-1974-----\$ 69,000

1974-1975-----\$1,253,910

1975-1976-----\$1,988,132

II. LEGISLATIVE RESEARCH COMMISSION

1974-1975-----\$1,491,710

1975-1976-----\$1,632,800

Any unexpended balance remaining at the close of the 1974-1975 fiscal year shall not lapse, but shall continue into the 1975-1976 fiscal year.

GRAND TOTAL-LEGISLATIVE

1973-1974-----\$ 69,000

1974-1975-----\$2,745,620

1975-1976-----\$3,620,932

**PART TWO
TRUST AND AGENCY FUNDS**

There is hereby appropriated to the Legislative Research Commission for the fiscal year ending June 30, 1975, and the fiscal year ending June 30, 1976, all of the receipts from the sale of publications and administrative regulations, and any unexpended balances remaining in the commission's existing Trust and Agency accounts at the close of the fiscal year ending June 30, 1974, all of which shall be deposited into a single Publications account within the Trust and Agency Fund.

PART THREE

There being an immediate need for certain of the above appropriations which are provided for the current fiscal year, ending June 30, 1974, an emergency is declared to exist, and this act shall become effective upon its passage and approval by the Governor.

HB 288, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

**PART ONE
OPERATING FUND GROUP**

Funds are appropriated for the fiscal year July 1, 1973 through June 30, 1974; fiscal year July 1, 1974, through June 30, 1975; and fiscal year July 1, 1975, through June 30, 1976 to the operating fund group from the sources of appropriation enumerated below each budget unit, including current receipts plus lapsed funds and any unappropriated surplus from the preceding fiscal years, in the amounts stated for the following officers, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, and 45 of the Kentucky Revised Statutes.

I. GENERAL GOVERNMENT

	1974-75	1975-76
1. Governor	\$ 715,200	\$ 784,500
Source of Appropriation:		
General Fund	\$ 715,200	\$ 784,500
2. Lieutenant Governor	\$ 157,100	\$ 157,100
Source of Appropriation:		
General Fund	\$ 157,100	\$ 157,100
3. Auditor of Public	1974-75	1975-76
Accounts	\$ 642,800	\$ 669,700
Source of Appropriation:		
General Fund	\$ 360,100	\$ 377,700
Federal Revenue		
Sharing Fund	\$ 80,500	\$ 82,100
Agency Receipts	\$ 202,200	\$ 209,900
TOTAL	\$ 642,800	\$ 669,700
4. Department of Law	1974-75	1975-76
	\$ 1,093,700	\$ 1,135,900
Source of Appropriation:		
General Fund	\$ 1,093,700	\$ 1,135,900
5. Secretary of State	1974-75	1975-76
a. General Operations	\$ 570,400	\$ 540,300
b. Restoration of Land		
Grant Books	\$ 20,000	\$ 20,000
TOTAL	\$ 590,400	\$ 560,300
Source of Appropriation:		
General Fund	\$ 590,400	\$ 560,300
Notwithstanding the provisions of KRS 271.055, KRS 56.300, and KRS 271.121; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Expenditure Fund.		
6. Board of Elections	1974-75	1975-76
	\$ 735,300	\$ 779,400

Source of Appropriation:

General Fund \$ 735,300 \$ 779,400

The sum of \$360,000 from the appropriation for the 1974-75 fiscal year, and \$370,000 from the appropriation for the 1975-76 fiscal year is provided to pay the state's share of county election expenses (KRS 118.450). Any unexpended amount remaining at the end of each fiscal year shall lapse to the General Expenditure Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

	1974-75	1975-76
7. Treasurer	\$ 704,400	\$ 731,200
Source of Appropriation:		
General Fund	\$ 648,000	\$ 674,800
Agency Receipts	\$ 56,400	\$ 56,400
TOTAL	\$ 704,000	\$ 731,200

	1974-75	1975-76
8. Capital Plaza	\$ 4,764,800	\$ 4,720,300
Source of Appropriation:		
General Fund	\$ 3,639,800	\$ 3,587,500
Agency Receipts	\$ 1,125,000	\$ 1,132,800
TOTAL	\$ 4,764,800	\$ 4,720,300

	1974-75	1975-76
9. General Contingency Fund	\$ 1,000,000	\$ 1,000,000
Source of Appropriation:		
General Fund	\$ 1,000,000	\$ 1,000,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1974-75 fiscal year shall not lapse, but shall continue into the 1975-76 fiscal year.

	1974-75	1975-76
10. County Costs	\$ 7,466,000	\$ 7,666,000
Source of Appropriation:		
General Fund	\$ 6,500,000	\$ 6,700,000
Agency Receipts	\$ 966,000	\$ 966,000
TOTAL	\$ 7,466,000	\$ 7,666,000

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from surplus by the Commissioner of the Executive Department for Finance and Administration.

	1974-75	1975-76
11. County Fees	\$ 8,274,500	\$ 8,678,200
A. County Fees for the following Counties:		
Jefferson, Kenton,		
Fayette, Campbell,		
Hardin, and Daviess		
Source of Appropriation:		
Agency Receipts	\$ 8,274,500	\$ 8,678,200

Funds are appropriated for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Commissioner of the Executive Department for Finance and Administration, and to pay to the Fiscal Court of each of said counties twenty-five percent (25%) of said fees as required by KRS 64.350.

	1974-75	1975-76
12. Executive Department for Finance and Administration	\$ 19,491,500	\$ 20,008,700
Source of Appropriation:		
General Fund	\$ 8,742,000	\$ 8,694,300
Agency Receipts	\$ 9,619,500	\$ 10,184,400
Federal Funds	\$ 1,130,000	\$ 1,130,000
TOTAL	\$ 19,491,500	\$ 20,008,700

The portion of the above appropriation budgeted for the State Planning Fund, \$1,600,000, in each year of the 1974-76 biennium, may be transferred to other major program areas for the purpose of funding planning studies approved by the State Planning Committee. Not less than \$300,000 of the State Planning Fund shall be used for research and technical assistance to the state's Area Development Districts in each year of the biennium.

	1974-75	1975-76
13. General Obligation Bonds		
Debt Service	\$ 10,368,300	\$ 10,378,400
Source of Appropriation:		
General Fund	\$ 10,368,300	\$ 10,378,400

For the principal and interest on bonds issued to pay veterans' bonuses, on general obligation park bonds, and on 1965 general obligation bonds.

	1974-75	1975-76
14. Commission on Human Rights	\$ 413,700	\$ 434,000
Source of Appropriation:		
General Fund	\$ 363,700	\$ 381,500
Federal Revenue		
Sharing Fund	\$ 50,000	\$ 52,500
TOTAL	\$ 413,700	\$ 434,000

	1974-75	1975-76
15. Kentucky Housing Corporation	\$ 147,600	\$ 148,000
Source of Appropriation:		
Agency Receipts	\$ 147,600	\$ 148,000

	1974-75	1975-76
16. Kentucky Retirement Systems	\$ 504,600	\$ 529,500
Source of Appropriation:		
Agency Receipts	\$ 504,600	\$ 529,500

	1974-75	1975-76
17. Department of Military Affairs	\$ 1,974,200	\$ 1,824,700
Source of Appropriation:		
General Fund	\$ 1,307,400	\$ 1,279,900
Federal Funds	\$ 580,500	\$ 537,100
Federal Revenue		
Sharing Fund	\$ 86,300	\$ 7,700
TOTAL	\$ 1,974,200	\$ 1,824,700

	1974-75	1975-76
18. Occupational and Professional Boards and Commissions		
A. Board of Accountancy	\$ 57,400	\$ 60,000
Source of Appropriation:		
Agency Receipts	\$ 57,400	\$ 60,000
	1974-75	1975-76
B. Board of Examiners and Registration of Architects	\$ 40,000	\$ 36,000
Source of Appropriation:		
Agency Receipts	\$ 40,000	\$ 36,000
	1974-75	1975-76
C. Kentucky Athletic Commission	\$ 35,500	\$ 35,500
Source of Appropriation:		
General Fund	\$ 35,500	\$ 35,500
	1974-75	1975-76
D. Board of Auctioneers	\$ 33,000	\$ 33,000
Source of Appropriation:		
Agency Receipts	\$ 33,000	\$ 33,000
	1974-75	1975-76
E. Board of Barbers	\$ 76,700	\$ 79,700
Source of Appropriation:		
Agency Receipts	\$ 76,700	\$ 79,700
	1974-75	1975-76
F. Board of Business Schools	\$ 7,900	\$ 8,000
Source of Appropriation:		
Agency Receipts	\$ 7,900	\$ 8,000
	1974-75	1975-76
G. Board of Chiropractic Examiners	\$ 27,000	\$ 27,000
Source of Appropriation:		
Agency Receipts	\$ 27,000	\$ 27,000
	1974-75	1975-76
H. Board of Dental Examiners	\$ 58,000	\$ 61,000
Source of Appropriation:		
Agency Receipts	\$ 58,000	\$ 61,000
	1974-75	1975-76
I. Board of Embalmers and Funeral Directors	\$ 31,600	\$ 31,600
Source of Appropriation:		
Agency Receipts	\$ 31,600	\$ 31,600
	1974-75	1975-76

J.	Board of Professional Engineers	\$ 98,000	\$ 95,200
	Source of Appropriation:		
	Agency Receipts	\$ 98,000	\$ 95,200
		1974-75	1975-76
K.	Board of Hairdressers and Cosmetologists	\$ 265,600	\$ 273,800
	Source of Appropriation:		
	Agency Receipts	\$ 265,600	\$ 273,800
		1974-75	1975-76
L.	Board of Landscape Architects	\$ 7,000	\$ 7,000
	Source of Appropriation:		
	Agency Receipts	\$ 7,000	\$ 7,000
		1974-75	1975-76
M.	Board of Medical Licensure	\$ 95,200	\$ 97,200
	Source of Appropriation:		
	Agency Receipts	\$ 95,200	\$ 97,200
		1974-75	1975-76
N.	Board of Nursing	\$ 180,500	\$ 189,600
	Source of Appropriation:		
	Agency Receipts	\$ 180,500	\$ 189,600
		1974-75	1975-76
O.	Board of Ophthalmic Dispensers	\$ 6,300	\$ 6,500
	Source of Appropriation:		
	Agency Receipts	\$ 6,300	\$ 6,500
		1974-75	1975-76
P.	Board of Optometric Examiners	\$ 12,200	\$ 12,200
	Source of Appropriation:		
	Agency Receipts	\$ 12,200	\$ 12,200
		1974-75	1975-76
Q.	Board of Pharmacy	\$ 108,500	\$ 110,700
	Source of Appropriation:		
	Agency Receipts	\$ 108,500	\$ 110,700
		1974-75	1975-76
R.	Board of Physical Therapy	\$ 7,000	\$ 6,500
	Source of Appropriation:		
	Agency Receipts	\$ 7,000	\$ 6,500
		1974-75	1975-76
S.	Board of Podiatry	\$ 600	\$ 700
	Source of Appropriation:		
	Agency Receipts	\$ 600	\$ 700
		1974-75	1975-76
T.	Board of Psychology	\$ 9,900	\$ 10,600
	Source of Appropriation:		
	Agency Receipts	\$ 9,900	\$ 10,600
		1974-75	1975-76
U.	Real Estate Commission	\$ 369,500	\$ 376,900
	Source of Appropriation:		
	Agency Receipts	\$ 369,500	\$ 376,900
		1974-75	1975-76
V.	Board of Speech Pathologists and Audiologists	\$ 2,900	\$ 2,300
	Source of Appropriation:		
	Agency Receipts	\$ 2,900	\$ 2,300
		1974-75	1975-76
W.	Board of Veterinary		

Examiners	\$ 11,000	\$ 11,000
Source of Appropriation:		
Agency Receipts	\$ 11,000	\$ 11,000
	1974-75	1975-76
X. Board of Watchmaking	\$ 8,000	\$ 8,000
Source of Appropriation:		
Agency Receipts	\$ 8,000	\$ 8,000

	1974-75	1975-76
19. Department of Personnel	\$ 1,908,800	\$ 1,938,700
Source of Appropriation:		
General Fund	\$ 1,569,000	\$ 1,598,700
Agency Receipts	\$ 200,000	\$ 200,000
Federal Funds	\$ 139,800	\$ 140,000
TOTAL	\$ 1,908,800	\$ 1,938,700

Notwithstanding the provisions of KRS 18.330, the above Department of Personnel appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Expenditure Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Commissioner of the Executive Department for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof, whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of the court reporters, the printing or other reproduction expenses related to transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to Circuit Court of the Court of Appeals, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof, whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, including, but not limited to, legal fees and court costs and fees.

	1974-75	1975-76
20. Department of Public Information	\$ 2,504,600	\$ 2,940,200
Source of Appropriation:		
General Fund	\$ 2,504,600	\$ 2,940,200

The sum of \$240,400 from the appropriation for the 1974-75 fiscal year, and \$329,700 from the appropriation for the 1975-76 fiscal year may be used for a cooperative advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

	1974-75	1975-76
21. Department of Revenue	\$ 13,013,100	\$ 13,596,900
Source of Appropriation:		
General Fund	\$ 12,893,100	\$ 13,503,600
Federal Funds	\$ 120,000	\$ 93,300
TOTAL	\$ 13,013,100	\$ 13,596,900

The appropriation of General Funds includes \$3,917,600 in fiscal year 1974-75 and \$4,156,500 in fiscal year 1975-76 for property valuation administrators; and any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

	1974-75	1975-76
22. Appropriations Not Other-		

wise Classified		
A. Back Tax Collections	Amount	Amount
	Necessary	Necessary
	1974-75	1975-76
B. Board of Claims Awards	Amount	Amount
	Necessary	Necessary

Funds are appropriated for the payment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund; provided, however, that awards under \$500 in cases where the operating department admits negligence shall be paid from funds available for the operations of such departments.

	1974-75	1975-76
C. Judgments	Amount	Amount
	Necessary	Necessary

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; provided, however, that such payments shall be approved in advance by the Attorney General, and such payments, where applicable, shall be subject to the provisions of KRS 45.

	1974-75	1975-76
D. Prior Year Claims	Amount	Amount
	Necessary	Necessary
	1974-75	1975-76

E. Unredeemed Checks	Amount	Amount
Refunded	Necessary	Necessary

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

	1974-75	1975-76
F. Confederate Pensions	\$ 600	\$ 600
Source of Appropriation:		
General Fund	\$ 600	\$ 600
	1974-75	1975-76

	1974-75	1975-76
G. Blanket Employees	Amount	Amount
Surety Bonds	Necessary	Necessary
For payment of premiums on blanket surety bonds as provided by KRS 62.170.		
	1974-75	1975-76

	1974-75	1975-76
H. Franklin Circuit Court	\$ 300	\$ 300
Source of Appropriation:		
General Fund	\$ 300	\$ 300
For purposes of supplies and equipment in accordance with KRS 28.165.		
	1974-75	1975-76

	1974-75	1975-76
I. Frankfort Planning		
Commission	\$ 1,000	\$ 1,000
Source of Appropriation:		
General Fund	\$ 1,000	\$ 1,000
	1974-75	1975-76

	1974-75	1975-76
J. Frankfort Cemetery	\$ 1,000	\$ 1,000
Source of Appropriation:		
General Fund	\$ 1,000	\$ 1,000
	1974-75	1975-76

	1974-75	1975-76
K. Public Improvements	Amount	Amount
	Necessary	Necessary

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

	1974-75	1975-76
L. Special Legislative	Amount	Amount
Claims	Necessary	Necessary
	1974-75	1975-76

	1974-75	1975-76
M. Money Refunded	Amount	Amount
	Necessary	Necessary

Funds are appropriated for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Commissioner of the Executive Department for Finance and

Administration and the Attorney General.

	1974-75	1975-76
N. Police and Firemen	Amount	Amount
Death Benefits	Necessary	Necessary
Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.		

II. PUBLIC PROTECTION AND REGULATION

	1974-75	1975-76
23. Alcoholic Beverage Control	\$ 534,900	\$ 547,400
Source of Appropriation:		
General Fund	\$ 532,900	\$ 545,400
Agency Receipts	\$ 2,000	\$ 2,000
TOTAL	\$ 534,900	\$ 547,400

	1974-75	1975-76
24. Banking and Securities	\$ 1,115,000	\$ 1,189,900
Source of Appropriation:		
General Fund	\$ 1,115,000	\$ 1,189,900
Notwithstanding the provisions of KRS 47.130, all receipts collected by the Department shall be paid into the General Expenditure Fund.		

	1974-75	1975-76
25. Board of Tax Appeals	\$ 93,900	\$ 95,300
Source of Appropriation:		
General Fund	\$ 93,900	\$ 95,300

	1974-75	1975-76
26. Department of Insurance	\$ 2,825,200	\$ 2,987,900
Source of Appropriation:		
General Fund	\$ 2,013,900	\$ 2,149,400
Agency Receipts	\$ 255,000	\$ 255,000
Federal Funds	\$ 60,000	\$ 60,000
Federal Revenue Sharing Fund	\$ 496,300	\$ 523,500
TOTAL	\$ 2,825,200	\$ 2,987,900

Notwithstanding any provisions of KRS 304.4-020 and 136.360 to the contrary, all receipts collected by the Department of Insurance shall be placed to the credit of the General Expenditure Fund, except receipts received under the provisions of KRS 304.8-190 and KRS 304.2-300; (At the end of fiscal year 1973-74 and fiscal year 1974-75 any excess up to \$10,000 collected under KRS 304.2-300 shall carry forward into the succeeding fiscal year); and all receipts collected in the Fire and Tornado Insurance Fund.

	1974-75	1975-76
27. Department of Labor	\$ 29,350,800	\$ 30,536,100
Source of Appropriation:		
General Fund	\$ 726,300	\$ 753,900
Agency Receipts	\$ 27,620,400	\$ 28,742,300
Federal Funds	\$ 1,004,100	\$ 1,039,900
TOTAL	\$ 29,350,800	\$ 30,536,100

Funds are appropriated for the general operations of the Department of Labor; provided, however, that the amount of General Fund support of the Division of Research and Statistics and the Division of Fiscal and Personnel shall not exceed twenty-five (25%) of the total cost of these divisions.

	1974-75	1975-76
28. Department of Mines and Minerals	\$ 1,535,500	\$ 1,509,600
Source of Appropriation:		
General Fund	\$ 1,011,400	\$ 1,019,100
Agency Receipts	\$ 82,000	\$ 82,000
Federal Funds	\$ 220,000	\$ 230,000
Federal Revenue Sharing Fund	\$ 222,100	\$ 178,500
TOTAL	\$ 1,535,500	\$ 1,509,600

	1974-75	1975-76
29. Office of Secretary for Public Protection and Regulation	\$ 205,900	\$ 212,100
Source of Appropriation:		
General Fund	\$ 205,900	\$ 212,100

	1974-75	1975-76
30. Public Service Commission	\$ 997,700	\$ 1,036,600
Source of Appropriation:		
General Fund	\$ 847,200	\$ 885,300
Agency Receipts	\$ 116,400	\$ 117,200
Federal Funds	\$ 34,100	\$ 34,100
TOTAL	\$ 997,700	\$ 1,036,600

	1974-75	1975-76
31. Quarter Horse and Appaloosa Horse Commission	\$ 22,500	\$ 24,000
Source of Appropriation:		
General Fund	\$ 10,000	\$ 10,000
Agency Receipts	\$ 12,500	\$ 14,000
TOTAL	\$ 22,500	\$ 24,000

	1974-75	1975-76
32. Racing Commission	\$ 507,900	\$ 519,900
Source of Appropriation:		
General Fund	\$ 160,900	\$ 166,900
Agency Receipts	\$ 347,000	\$ 353,000
TOTAL	\$ 507,900	\$ 519,900

	1974-75	1975-76
33. Registry of Election		

Finance	\$	55,100	\$	56,000
Source of Appropriation:				
General Fund	\$	55,100	\$	56,000

		1974-75		1975-76
34. Trotting Commission	\$	315,200	\$	332,900
Source of Appropriation:				
General Fund	\$	173,500	\$	182,700
Agency Receipts	\$	141,700	\$	150,200
TOTAL	\$	315,200	\$	332,900

III. DEVELOPMENT

		1974-75		1975-76
35. Council on Economic Advisors	\$	92,000	\$	92,500
Source of Appropriation:				
General Fund	\$	92,000	\$	92,500

		1974-75		1975-76
36. Office of Secretary for Development	\$	2,583,100	\$	3,406,400
Source of Appropriation:				
General Fund	\$	2,040,600	\$	2,481,400
Agency Receipts	\$	380,000	\$	665,000
Federal Funds	\$	162,500	\$	260,000
TOTAL	\$	2,583,100	\$	3,406,400

		1974-75		1975-76
37. Department of Commerce	\$	2,861,400	\$	2,998,900
Source of Appropriation:				
General Fund	\$	2,680,400	\$	2,817,900
Agency Receipts	\$	31,000	\$	31,000
Federal Funds	\$	150,000	\$	150,000
TOTAL	\$	2,861,400	\$	2,998,900

		1974-75		1975-76
38. Kentucky Industrial Development Finance Authority	\$	705,000	\$	705,000
Source of Appropriation:				
General Fund	\$	300,000	\$	300,000
Agency Receipts	\$	405,000	\$	405,000
TOTAL	\$	705,000	\$	705,000

		1974-75		1975-76
39. Department of Parks	\$	21,735,600	\$	22,656,300
Source of Appropriation:				
General Fund	\$	10,615,400	\$	11,065,500
Agency Receipts	\$	11,120,200	\$	11,590,800

TOTAL	\$ 21,735,600	\$ 22,656,300
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	1974-75	1975-76
40. Breaks Interstate Park	\$ 125,500	\$ 125,500
Source of Appropriation:		
General Fund	\$ 125,500	\$ 125,500

	1974-75	1975-76
41. Department of Agriculture	\$ 4,260,100	\$ 4,421,700
Source of Appropriation:		
General Fund	\$ 3,466,700	\$ 3,646,100
Agency Receipts	\$ 328,000	\$ 310,100
Federal Funds	\$ 412,900	\$ 465,500
Federal Revenue		
Sharing Fund	\$ 52,500	
TOTAL	\$ 4,260,100	\$ 4,421,700

	1974-75	1975-76
42. State Fair Board	\$ 3,673,000	\$ 3,712,000
Source of Appropriation:		
General Fund	\$ 575,000	\$ 650,000
Agency Receipts	\$ 3,048,000	\$ 3,062,000
Federal Revenue		
Sharing Fund	\$ 50,000	
TOTAL	\$ 3,673,000	\$ 3,712,000

	1974-75	1975-76
43. Historical Events Celebration Commission	\$ 190,000	\$ 190,000
Source of Appropriation:		
General Fund	\$ 150,000	\$ 150,000
Federal Funds	\$ 40,000	\$ 40,000
TOTAL	\$ 190,000	\$ 190,000

	1974-75	1975-76
44. Department of Fish and Wildlife	\$ 6,300,600	\$ 6,686,700
Source of Appropriation:		
Agency Receipts	\$ 4,400,600	\$ 4,913,700
Federal Funds	\$ 1,900,000	\$ 1,773,000
TOTAL	\$ 6,300,600	\$ 6,686,700

IV. EDUCATION

IV. A. EDUCATION AND THE ARTS

	1974-75	1975-76
45. Advisory Council for Vocational Education and Manpower Develop-		

ment and Training	\$	47,400	\$	50,000
Source of Appropriation:				
Federal Funds	\$	47,400	\$	50,000

		1974-75		1975-76
46. Arts Commission	\$	405,500	\$	470,100
Source of Appropriation:				
General Fund	\$	225,800	\$	290,400
Federal Funds	\$	179,700	\$	179,700
TOTAL	\$	405,500	\$	470,100

		1974-75		1975-76
47. Department of Education				
A. Elementary and Secondary Education				
	\$	392,582,200	\$	433,596,200
Source of Appropriation:				
General Fund	\$	323,131,200	\$	362,263,600
Agency Receipts	\$	832,700	\$	758,900
Federal Funds	\$	68,502,100	\$	70,573,700
Federal Revenue				
Sharing Fund	\$	116,200		
TOTAL	\$	392,582,200	\$	433,596,200

The above appropriations in 47 A. are to be distributed as follows:

		1974-75		1975-76
(1) General Operations	\$	82,863,800	\$	85,595,700
Source of Appropriation:				
General Fund	\$	13,412,800	\$	14,263,100
Agency Receipts	\$	832,700	\$	758,900
Federal Funds	\$	68,502,100	\$	70,573,700
Federal Revenue				
Sharing Fund	\$	116,200		
TOTAL	\$	82,863,800	\$	85,595,700

(a) The appropriations in 47 A (1) include the following amounts for use by Kentucky School for the Blind:

		1974-75		1975-76
General Fund	\$	822,700	\$	870,000
Agency Receipts	\$	2,000	\$	2,000
Federal Funds	\$	53,000	\$	55,900
Federal Revenue				
Sharing Fund	\$	48,400		
TOTAL	\$	926,100	\$	927,900

(b) The appropriations in 47 A (1) include the following amounts for use by Kentucky School for the Deaf:

		1974-75		1975-76
General Fund	\$	1,648,000	\$	1,760,100
Agency Receipts	\$	9,700	\$	9,800
Federal Funds	\$	120,500	\$	126,800
Federal Revenue				
Sharing Fund	\$	67,800		
TOTAL	\$	1,846,000	\$	1,896,700

(c) The appropriations in 47 A (1) include the following amounts for the purchase of textbooks in accordance with KRS 157.100, *et seq.*, and applicable regulations:

		1974-75		1975-76
General Fund	\$	3,429,000	\$	3,600,500

(d) The appropriations in 47 A (1) include the following amounts for use by the Committee for School District Audits:

		1974-75		1975-76
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General Fund \$ 216,000 \$ 233,300

(e) The appropriations in 47 A (1) include the following amounts for the state match of federal school lunch funds:

 1974-75 1975-76
General Fund \$ 1,433,200 \$ 1,452,400

(f) The appropriations in 47 A (1) include the following amounts for providing \$3,000 of life insurance coverage for each certificated and non-certificated employee of boards of education:

 1974-75 1975-76
General Fund \$ 675,100 \$ 692,900

(g) The appropriations in 47 A (1) include the following amounts for use in providing an education to out-of-district children:

 1974-75 1975-76
General Fund \$ 360,600 \$ 374,800
 1974-75 1975-76

(2) School Foundation
Program \$309,718,400 \$348,000,500
Source of Appropriation:
General Fund \$309,718,400 \$348,000,500

Accumulated earnings of the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1974-75 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 Years	\$ 7,740	\$7,190	\$6,640	\$2,900	\$2,600
4-9 Years	\$ 8,820	\$8,270	\$7,740	\$2,900	\$2,600
10 Years & Over	\$ 9,440	\$8,890	\$8,360	\$2,900	\$2,600

Beginning with the school year 1975-76, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 Years	\$ 8,440	\$7,840	\$7,240	\$2,900	\$2,600
4-9 Years	\$ 9,610	\$9,010	\$8,440	\$2,900	\$2,600
10 Years & Over	\$10,290	\$9,690	\$9,110	\$2,900	\$2,600

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1), shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as

follows:

- (1) One-teacher schools;
- (2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and
- (3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance, or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Allotments, provision for which is made under this Act, for classroom units pursuant to KRS 157.360(4), (5), and (9) shall be as follows:

	1973-74	1974-75	1975-76
Vocational Education	1,780	2,035	2,230
Exceptional Children	1,360	1,860	2,460
Kindergarten	100	150	200

Provided, however, that if classroom units in either category prove to be excessive, the surplus not to exceed fifty (50) such classroom units may be reallocated to the other category by the Superintendent of Public Instruction, upon approval of the State Board of Education and the Commissioner of the Executive Department for Finance and Administration.

Allotments for classroom units pursuant to KRS 157.360(6) shall only be for those personnel enumerated under said subsection who are qualified for their respective positions under applicable provisions of law and regulations, and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses shall be determined by multiplying the number of classroom units by: \$1,680 in the 1974-75 school year and \$1,830 in the 1975-76 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: \$1,400 in the 1974-75 school year and \$1,550 in the 1975-76 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children; provided, however, that no existing room shall be divided by partitions of nonstructural materials. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of, or dangerous to the safety of, school children.

If a school district operates any school or grade of a school for a term of less than nine and one-quarter (9-1/4) scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 156.650, no unexpended portions of the Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650.

The total appropriation for the Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 *et seq.* If the required expenditures exceed these estimates, the Commissioner of the Executive Department for Finance and Administration, with approval of the Governor, may increase the appropriations by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, or the total appropriations to the Foundation Program, is subject to the provisions of paragraph 11 Part Six, General Provisions, of this Act and the provisions of KRS 45.160.

	1974-75	1975-76
B. Adult and Continuing Education	\$ 22,572,700	\$ 23,664,000
Source of Appropriation:		
General Fund	\$ 11,617,100	\$ 12,563,400
Agency Receipts	\$ 1,157,900	\$ 1,184,700
Federal Funds	\$ 9,597,700	\$ 9,735,900
Federal Revenue		
Sharing Fund	\$ 200,000	\$ 180,000
TOTAL	\$ 22,572,700	\$ 23,664,000
	1974-75	1975-76

C. Vocational Rehabili-

tation	\$ 20,275,100	\$ 20,633,600
Source of Appropriation:		
General Fund	\$ 1,585,800	\$ 1,630,500
Agency Receipts	\$ 1,397,200	\$ 1,478,000
Federal Funds	\$ 17,292,100	\$ 17,525,100
TOTAL	\$ 20,275,100	\$ 20,633,600

The appropriations in 47 C include the following amounts for use by Kentucky Industries for the Blind:

	1974-75	1975-76
General Fund	\$ 180,800	\$ 174,200
Agency Receipts	\$ 347,700	\$ 361,000
TOTAL	\$ 528,500	\$ 535,200

D. General Administration and Support	\$ 2,422,900	\$ 2,527,300
Source of Appropriation:		
General Fund	\$ 1,708,100	\$ 1,867,900
Agency Receipts	\$ 977,700	\$ 1,025,300
Federal Funds	\$ 335,100	\$ 351,300
TOTAL	\$ 3,020,900	\$ 3,244,500

The above General Fund appropriations include \$578,000 during fiscal year 1974-75 and \$717,200 during fiscal year 1975-76 as contingencies to fund activities in the department which have been funded in fiscal year 1973-74, with funds made available to the department from the Federal Elementary and Secondary Education Act Title V and 402. If Federal funds are not available to fund these activities, the Commissioner of the Executive Department for Finance and Administration, upon the request of the Superintendent of Public Instruction, is authorized to allot and transfer the herein stated General Fund amounts to the programs shown in the budget workpapers as funded during fiscal year 1973-74 from the herein stated Federal sources. If Federal funds are available to finance these activities, the Commissioner of the Executive Department for Finance and Administration shall hold unallotted the herein stated General Fund amounts which shall lapse to the General Expenditure Fund surplus at the end of the fiscal year.

	1974-75	1975-76
48. Educational Television Authority	\$ 3,699,500	\$ 4,089,900
Source of Appropriation:		
General Fund	\$ 3,384,200	\$ 3,684,700
Agency Receipts	\$ 80,000	\$ 80,000
Federal Revenue Sharing Fund	\$ 235,300	\$ 325,200
TOTAL	\$ 3,699,500	\$ 4,089,900

The appropriations in 48 include the following amounts for each major program area:

	1974-75	1975-76
Adult and Continuing Education	\$ 558,000	\$ 602,000
Cultural Affairs	\$ 351,000	\$ 398,400
Elementary and Secondary Education	\$ 1,564,000	\$ 1,822,600
General Administration and Support	\$ 1,037,500	\$ 1,050,300
Pre-School	\$ 189,000	\$ 216,600

The General Fund appropriations in 48 include in General Administration and Support \$657,600 in fiscal year 1974-75 and \$652,000 in fiscal year 1975-76 for lease payments to the Department of Education to cover Educational Television Debt Service.

	1974-75	1975-76
49. Heritage Commission	\$ 289,700	\$ 310,500
Source of Appropriation:		
General Fund	\$ 134,400	\$ 140,900

Federal Funds	\$ 155,300	\$ 169,900
TOTAL	\$ 289,700	\$ 310,500

	1974-75	1975-76
50. Historical Society	\$ 652,500	\$ 775,700
Source of Appropriation:		
General Fund	\$ 471,400	\$ 587,000
Agency Receipts	\$ 181,100	\$ 188,700
TOTAL	\$ 652,500	\$ 775,700

	1974-75	1975-76
51. Department of Library and Archives	\$ 4,747,300	\$ 5,190,500
A. General Operations	\$ 3,847,300	\$ 4,090,500
B. Local Library Aid (Non-Recurring)	\$ 900,000	\$ 1,100,000
Source of Appropriation:		
General Fund	\$ 3,851,000	\$ 4,302,700
Agency Receipts	\$ 23,500	\$ 15,000
Federal Funds	\$ 422,800	\$ 422,800
Federal Revenue		
Sharing Fund	\$ 450,000	\$ 450,000
TOTAL	\$ 4,747,300	\$ 5,190,500

The appropriations in 51B include funds for non-recurring grants, not to exceed \$5,000 per year for each eligible library, to local public libraries for the purchase of books and library materials; funds to provide non-recurring grants to local public libraries for the construction, reconstruction, and repair of public library facilities, in accordance with administrative regulations established by the Department of Library and Archives - provided, however, that reconstruction and repair grants may not exceed \$15,000 for any project during the biennium; and funds for new construction project grants not to exceed \$135,000 or sixty-five percent (65%) of the total project cost, whichever is the lesser amount. With the written approval of the State Librarian and the Commissioner, Executive Department for Finance and Administration, the maximum grant may exceed sixty-five percent (65%) of the total project cost.

IV. B. PUBLIC HIGHER EDUCATION

	1974-75	1975-76
52. Council on Public Higher Education	\$ 4,300,400	\$ 6,402,700
Source of Appropriation:		
General Fund	\$ 2,160,000	\$ 3,059,300
Federal Funds	\$ 89,600	\$ 67,300
Federal Revenue		
Sharing Fund	\$ 2,050,800	\$ 3,276,100
TOTAL	\$ 4,300,400	\$ 6,402,700

Included in the \$4,300,400 appropriation for the 1974-75 fiscal year is \$2,535,900 for General Administration/Coordination and Planning activities and \$1,764,500 for Institutional Pools. Included in the \$6,402,700 appropriation for the 1975-76 fiscal year is \$3,864,200 for General Administration/Coordination and Planning activities and \$2,538,500 for Institutional Pools.

In fiscal year 1974-75, \$500,000, and in fiscal year 1975-76, \$1,000,000, is appropriated to the Council on Public Higher Education for allocation to the state college and universities for enrollment growth, to be distributed in the following manner: On or before May 1, preceding the fiscal year for which the appropriation is available, the State Council on Public Higher Education shall compute and certify to the Office for Policy and Management, Executive Department for Finance and Administration, for allotment purposes, the actual full-time equivalent student growth if any for the preceding fall semester over the enrollment in the fall semester of the prior fiscal year, if any. The basis for the computation shall be the same as that contained in the Council's annual publication entitled *Kentucky College and University Enrollments*, and full-time equivalent students shall be counted in like manner without regard to the level of classification or

type of institution. Each college and university's percentage and share of the appropriation in each fiscal year as designated above shall be the same as its percentage and share of the total enrollment growth for all of the state-supported college and universities, except that no institution shall receive more than the average per Full-Time Equivalent student regular General Fund appropriation or the growth pool divided by Full-Time Equivalent student increase, whichever is less.

In fiscal year 1974-75, \$1,000,000, and in fiscal year 1975-76, \$1,000,000, is appropriated to the Council on Public Higher Education for allocation to state college and universities for Health Programs. These funds will provide support to state institutions for health programs which are or will be severely affected by curtailment of Federal funds. As a planned contingency fund, these monies shall not be allocated to the state institutions if Federal funds become available and any funds not allotted shall lapse at the end of each fiscal year.

In fiscal year 1974-75, \$264,450, and in fiscal year 1975-76, \$538,500, is appropriated to the Council on Public Higher Education for allocation to the University of Louisville for tuition income replacement. These funds will provide supplementary monies to allow tuition reduction for University of Louisville in-state, undergraduate students--\$25 in fiscal year 1974-75 and another \$25 in fiscal year 1975-76.

	1974-75	1975-76
53. Higher Education Assistance Authority	\$ 1,268,900	\$ 2,271,700
Source of Appropriation:		
General Fund	\$ 268,900	\$ 271,700
Federal Revenue		
Sharing Fund	\$ 1,000,000	\$ 2,000,000
TOTAL	\$ 1,268,900	\$ 2,271,700

Loan reserves required are appropriated and continued for each fiscal year.

Of the appropriations, \$1,000,000 in fiscal year 1974-75 and \$2,000,000 in fiscal year 1975-76, shall be used to establish a revolving Student Loan Program.

	1974-75	1975-76
54. Commission on Higher Education	\$ 89,600	\$ 67,300
Source of Appropriation:		
Federal Funds	\$ 89,600	\$ 67,300

	1974-75	1975-76
55. University of Kentucky	\$155,537,800	\$164,202,800
Source of Appropriation:		
General Fund	\$ 74,265,300	\$ 79,463,600
Agency Receipts	\$ 73,786,100	\$ 77,171,600
Federal Funds	\$ 7,486,400	\$ 7,567,600
TOTAL	\$155,537,800	\$164,202,800

	1974-75	1975-76
56. Eastern Kentucky University	\$ 29,422,700	\$ 30,571,700
Source of Appropriation:		
General Fund	\$ 17,273,700	\$ 18,241,600
Agency Receipts	\$ 10,536,500	\$ 10,673,300
Federal Funds	\$ 1,612,500	\$ 1,656,800
TOTAL	\$ 29,422,700	\$ 30,571,700

	1974-75	1975-76
57. Western Kentucky University	\$ 28,206,000	\$ 29,470,600
Source of Appropriation:		
General Fund	\$ 17,466,500	\$ 18,676,900
Agency Receipts	\$ 8,699,500	\$ 8,778,300
Federal Funds	\$ 2,040,000	\$ 2,015,400
TOTAL	\$ 28,206,000	\$ 29,470,600

	1974-75	1975-76
58. Morehead State University	\$ 17,866,400	\$ 18,604,500
Source of Appropriation:		
General Fund	\$ 10,835,200	\$ 11,504,200
Agency Receipts	\$ 5,945,200	\$ 5,954,300
Federal Funds	\$ 1,086,000	\$ 1,146,000
TOTAL	\$ 17,866,400	\$ 18,604,500

	1974-75	1975-76
59. Murray State University	\$ 19,507,500	\$ 20,514,100
Source of Appropriation:		
General Fund	\$ 12,337,600	\$ 13,141,100
Agency Receipts	\$ 6,207,600	\$ 6,410,700
Federal Funds	\$ 962,300	\$ 962,300
TOTAL	\$ 19,507,500	\$ 20,514,100

	1974-75	1975-76
60. Kentucky State University	\$ 9,392,600	\$ 9,868,500
Source of Appropriation:		
General Fund	\$ 4,407,700	\$ 4,783,200
Agency Receipts	\$ 2,075,000	\$ 2,075,000
Federal Funds	\$ 2,909,900	\$ 3,010,300
TOTAL	\$ 9,392,600	\$ 9,868,500

Included in the appropriation for Kentucky State University is \$132,000 each fiscal year for Capital Plaza Rent.

	1974-75	1975-76
61. Northern Kentucky State College	\$ 8,947,100	\$ 9,541,700
Source of Appropriation:		
General Fund	\$ 5,925,900	\$ 6,367,100
Agency Receipts	\$ 3,021,200	\$ 3,174,600
Federal Funds		
TOTAL	\$ 8,947,100	\$ 9,541,700

	1974-75	1975-76
62. University of Louisville	\$ 48,783,300	\$ 51,684,100
Source of Appropriation:		

General Fund	\$ 20,021,300	\$ 22,322,200
Agency Receipts	\$ 21,911,000	\$ 22,164,900
Federal Funds	\$ 6,851,000	\$ 7,197,000
TOTAL	\$ 48,783,300	\$ 51,684,100

IV. C. TEACHERS' RETIREMENT SYSTEM

	1974-75	1975-76
63. Teachers' Retirement System	\$ 40,418,700	\$ 41,614,900
Source of Appropriation:		
General Fund	\$ 33,151,300	\$ 36,732,000
Federal Revenue		
Sharing Fund	\$ 7,267,400	\$ 4,882,900
TOTAL	\$ 40,418,700	\$ 41,614,900

The appropriations in 63 include \$7,267,400 in fiscal year 1974-75 and \$4,882,900 in fiscal year 1975-76 to liquidate a part of the state's prior service obligation.

The appropriations in 63 include \$441,800 in fiscal year 1974-75 and \$462,000 in fiscal year 1975-76 for administrative expenses.

The appropriations in 63 include \$3,023,800 in fiscal year 1974-75 and \$3,587,500 in fiscal year 1975-76 to provide a cost-of-living adjustment for retired teachers.

The appropriations in 63 include \$2,698,700 in fiscal year 1974-75 and \$2,971,100 in fiscal year 1975-76 to implement full retirement benefits for 30 years service at age 55; Chapter 168, Acts of the General Assembly of the Commonwealth of Kentucky, Regular Session of 1970 notwithstanding.

V. HUMAN RESOURCES

	1974-75	1975-76
64. Department for Human Resources		
A. General Administration and Support	\$ 16,147,000	\$ 15,813,000
Source of Appropriation:		
General Fund	\$ 8,791,500	\$ 8,828,000
Agency Receipts	\$ 1,528,500	\$ 1,538,700
Federal Funds	\$ 5,292,000	\$ 5,446,300
Federal Revenue		
Sharing Fund	\$ 535,000	
TOTAL	\$ 16,147,000	\$ 15,813,000
B. Health Services	\$ 77,246,750	\$ 80,808,580
Source of Appropriation:		
General Fund	\$ 40,774,700	\$ 43,354,900
Agency Receipts	\$ 14,989,630	\$ 15,568,060
Federal Funds	\$ 19,867,920	\$ 20,287,120
Federal Revenue		
Sharing Fund	\$ 1,614,500	\$ 1,598,500
TOTAL	\$ 77,246,750	\$ 80,808,580
All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.		
C. Social Services	\$ 31,637,770	\$ 32,269,650
Source of Appropriation:		
General Fund	\$ 13,643,800	\$ 14,076,000
Agency Receipts	\$ 2,124,000	\$ 2,124,000
Federal Funds	\$ 14,803,970	\$ 14,303,650
Federal Revenue		
Sharing Fund	\$ 1,066,000	\$ 1,766,000
TOTAL	\$ 31,637,770	\$ 32,269,650
D. Social Insurance	\$463,165,000	\$485,188,800

Source of Appropriation:

General Fund	\$ 82,715,400	\$ 94,376,300
Federal Revenue		
Sharing Fund	\$ 65,000	\$390,812,500
Federal Funds	\$380,384,600	\$390,812,500
TOTAL	\$463,165,000	\$485,188,800

Any unexpended balance remaining in the benefits portion of the Social Insurance budget at the close of the 1974-75 fiscal year shall not lapse, but shall continue into the 1975-76 fiscal year.

E. Manpower Services \$ 14,534,300 \$ 14,553,900

Source of Appropriation:

General Fund	\$ 560,600	\$ 562,600
Federal Funds	\$ 13,973,700	\$ 13,991,300
TOTAL	\$ 14,534,300	\$ 14,553,900

VI JUSTICE

1974-75 1975-76

65. Adjudication of Defendants

A. Judiciary \$ 6,424,700 \$ 4,941,800

To be distributed as follows:

(1) Judiciary-Court of Appeals \$ 940,500 \$ 954,900

Source of Appropriation:

General Fund	\$ 914,000	\$ 927,200
Agency Receipts	\$ 26,500	\$ 27,700
TOTAL	\$ 940,500	\$ 954,900

(2) Judiciary-Clerk of Court of Appeals \$ 136,400 \$ 140,900

Source of Appropriation:

General Fund	\$ 136,400	\$ 140,900
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(3) Judiciary-Circuit Courts \$ 2,623,500 \$ 2,627,000

Source of Appropriation:

General Fund	\$ 2,623,500	\$ 2,627,000
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This appropriation includes \$469,700 each year of the biennium to pay necessary governmental expenses related to social security for Circuit Clerks, Master Commissioners and Court Reporters; retirement for Circuit Clerks, Master Commissioners, Court Reporters and Assistant Commonwealth Attorneys; and Life and Health Insurance for Circuit Clerks and Commonwealth Attorneys. Any expense in excess of this amount shall be deemed a necessary governmental expense.

(4) Judiciary-

Judicial Retirement System \$ 2,577,800 \$ 1,078,800

Source of Appropriation:

General Fund	\$ 1,166,000	\$ 1,078,800
Federal Revenue		
Sharing Fund	\$ 1,411,800	
TOTAL	\$ 2,577,800	\$ 1,078,800

(5) Judiciary-State Law Library \$ 99,400 \$ 92,900

Source of Appropriation:

General Fund	\$ 99,400	\$ 92,900
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(6) Judiciary-Board of Bar Examiners \$ 47,100 \$ 47,300

Source of Appropriation:

Agency Receipts	\$ 47,100	\$ 47,300
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Any expenditures in excess of the amounts in (1), (2), (3), and (5) shall be deemed necessary governmental expenses.

B. Department of Justice \$ 1,978,500 \$ 2,020,300

Source of Appropriation:

General Fund	\$ 1,947,700	\$ 1,987,800
Agency Receipts	\$ 30,800	\$ 32,500
TOTAL	\$ 1,978,500	\$ 2,020,300

	1974-75	1975-76
TOTAL-ADJUDICATION OF DEFENDANTS	\$ 8,403,200	\$ 6,962,100
Source of Appropriation:		
General Fund	\$ 6,887,000	\$ 6,854,600
Federal Revenue		
Sharing Fund	\$ 1,411,800	
Agency Receipts	\$ 104,400	\$ 107,500
TOTAL	\$ 8,403,200	\$ 6,962,100

	1973-74	1974-75	1975-76
66.Control and Reduction of Crime			
A. Department of Justice	\$ 131,400	\$ 33,536,900	\$ 37,903,400
Source of Appropriation:			
General Fund	\$ 131,400	\$ 20,758,800	\$ 22,923,400
Federal Funds		\$ 8,382,000	\$ 10,477,500
Agency Receipts		\$ 4,396,100	\$ 4,502,500
TOTAL	\$ 131,400	\$ 33,536,900	\$ 37,903,400

	1973-74	1974-75	1975-76
67.Maintenance of Public Order			
A. Department of Justice	\$ 236,700	\$ 5,275,200	\$ 6,963,300
Source of Appropriation:			
General Fund	\$ 236,700	\$ 5,233,300	\$ 6,921,400
Agency Receipts		\$ 41,900	\$ 41,900
TOTAL	\$ 236,700	\$ 5,275,200	\$ 6,963,300

	1973-74	1974-75	1975-76
68.Traffic Safety and Supervision			
A. Department of Justice	\$ 495,000	\$ 9,666,700	\$ 12,323,200
Source of Appropriation:			
General Fund	\$ 495,000	\$ 9,580,400	\$ 12,236,900
Agency Receipts		\$ 86,300	\$ 86,300
TOTAL	\$ 495,000	\$ 9,666,700	\$ 12,323,200

	1973-74	1974-75	1975-76
69. General Administration and Support			
A. Department of Justice	\$ 36,900	\$ 4,929,600	\$ 5,518,000
Source of Appropriation:			
General Fund	\$ 36,900	\$ 3,083,400	\$ 3,435,700
Federal Funds		\$ 1,166,100	\$ 1,396,200
Agency Receipts		\$ 680,100	\$ 686,100
TOTAL	\$ 36,900	\$ 4,929,600	\$ 5,518,000

Nothing in the appropriations for the Department of Justice shall preclude reallocation of funds, within the total expenditure level established, within the Department of Justice among various programs to fully accept any Crime Commission or Federal grants; except that the total general fund commitment to all major programs areas administered in the Department of Justice shall not exceed \$40,603,600 in fiscal year 1974-75 and \$47,505,200 in fiscal year 1975-76.

VII NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1974-75	1975-76
70. Department for Natural Resources and Environmental Protection		
A. Land Resources	\$ 7,302,800	\$ 6,418,300
Source of Appropriation:		
General Fund	\$ 4,809,700	\$ 4,923,700
Agency Receipts	\$ 417,800	\$ 419,300
Federal Funds	\$ 1,075,300	\$ 1,075,300
Federal Revenue Sharing Fund	\$ 1,000,000	
TOTAL	\$ 7,302,800	\$ 6,418,300

Not less than \$60,000 of the appropriation for each fiscal year in 70 A shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of the amount available in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor. The appropriation in 70 A for fiscal year 1974-75 includes \$1,000,000 for the reclamation fund.

B. Environmental Quality	\$ 4,930,000	\$ 4,101,200
Source of Appropriation:		
General Fund	\$ 3,110,100	\$ 3,281,300
Federal Funds	\$ 819,900	\$ 819,900
Federal Revenue Sharing Fund	\$ 1,000,000	
TOTAL	\$ 4,930,000	\$ 4,101,200

The appropriation in 70 B for fiscal year 1974-75 includes \$1,000,000 for the purpose of repairing and maintaining state owned dams.

C. General Administration and Support	\$ 1,008,800	\$ 1,068,500
Source of Appropriation:		
General Fund	\$ 1,008,800	\$ 1,068,500

PART TWO
I. TRANSPORTATION FUND GROUP

There is established for the purpose of paying all costs of operation and maintenance of the Department of Transportation and for carrying on its activities and functions, a Transportation Fund Group, which shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, general funds appropriated, or any other source pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated surplus, together with any balance as of June 30, 1974, and June 30, 1975, shall constitute the Transportation Fund Group for the fiscal years 1974-75 and 1975-76 respectively.

Funds in the Transportation Fund Group are appropriated for use by the Department in its activities, function, and duties performed by it as prescribed by law, provided, however, that an annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration by June 1, 1974, for fiscal year 1974-75 and by June 1, 1975, for fiscal year 1975-76.

	1974-75	1975-76
1. Air	\$ 13,285,400	\$ 6,954,400
Source of Appropriation:		
General Fund	\$ 513,600	\$ 1,509,400
Agency Receipts	\$ 178,400	\$ 145,000
Federal Funds	\$ 10,111,300	\$ 4,084,200
Local Funds	\$ 2,482,100	\$ 1,215,800
TOTAL	\$ 13,285,400	\$ 6,954,400

	1974-75	1975-76
2. General Administration and Support	\$ 23,673,600	\$ 26,290,200
Source of Appropriation:		
Road Fund	\$ 22,152,600	\$ 24,855,600
General Fund	\$ 243,400	\$ 251,000
Kentucky Turnpike Authority	\$ 1,207,600	\$ 1,183,600
Federal Funds	\$ 70,000	
TOTAL	\$ 23,673,600	\$ 26,290,200

	1974-75	1975-76
3. Highways	\$373,284,100	\$341,414,900
Source of Appropriation:		
Road Fund	\$220,048,500	\$237,664,300
General Fund	\$ 3,133,500	\$ 3,359,000
Agency Receipts	\$ 1,162,700	\$ 1,11,700
Federal Funds	\$ 95,939,500	\$ 91,102,300
Kentucky Turnpike Authority	\$ 4,781,700	\$ 5,000,000
Turnpike Authority	\$ 21,718,200	\$ 3,177,600
General Fund Non-Recurring	\$ 26,500,000	
TOTAL	\$373,284,100	\$341,414,900
To be distributed as follows:		
A. Bureau of Highways	\$314,898,900	\$279,819,200
Source of Appropriation:		
Road Fund	\$165,959,500	\$180,539,300
Federal Funds	\$ 95,939,500	\$ 91,102,300
Kentucky Turnpike Authority	\$ 4,781,700	\$ 5,000,000
Turnpike Authority	\$ 21,718,200	\$ 3,177,600

General Fund Non-		
Recurring	\$ 26,500,000	
TOTAL	\$314,898,900	\$279,819,200

B. Rural Highways

1. County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges, the sum of \$13,000,000 for fiscal year 1974-75 and \$13,000,000 for fiscal year 1975-76, shall be expended in accordance with the provisions of KRS 179.410 through 179.430.

2. Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. This appropriation is in addition to the amount appropriated under Section 3, Subsection B, Paragraph 1, of Part Two of this Appropriation Act. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

C. Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS Chapter 177. These funds shall be distributed in accordance with the formula prescribed by the applicable provisions of KRS Chapter 177. This appropriation is in addition to the amount appropriated under Section 3A.

	1974-75	1975-76
D. Bureau of Vehicle Regulation (Except the Division of Water Enforcement)		
Source of Appropriation:		
General Fund	\$ 4,610,200	\$ 4,795,700
Agency Receipts		
Road Fund		
TOTAL	\$ 4,610,200	\$ 4,795,700

	1974-75	1975-76
4. Mass Transit	\$ 578,600	\$ 603,400
Source of Appropriation:		
General Fund	\$ 178,600	\$ 203,400
Federal Funds	\$ 400,000	\$ 400,000
TOTAL	\$ 578,600	\$ 603,400

	1974-75	1975-76
5. Railroad Commission	\$ 47,100	\$ 47,600
Source of Appropriation:		
General Fund	\$ 47,100	\$ 47,600

	1974-75	1975-76
6. Water	\$ 522,000	\$ 524,600
Source of Appropriation:		
General Fund	\$ 439,200	\$ 479,600
Agency Receipts	\$ 18,000	
Federal Funds	\$ 64,800	\$ 45,000
TOTAL	\$ 522,000	\$ 524,600

PART THREE
CAPITAL CONSTRUCTION
1974-75 1975-76

for Finance and Administration		
A. Capital Construction Fund		
	\$211,782,000	\$ 52,751,000
Source of Appropriation:		
General Fund	\$ 35,173,700	\$ 5,444,200
Federal Funds	\$ 3,321,000	\$ 2,670,000
Federal Revenue		
Sharing Fund	\$ 94,907,300	\$ 42,916,800
Revenue Bonds	\$ 77,380,000	\$ 900,000
Local Funds		\$ 820,000
Private Donor	\$ 1,000,000	
TOTAL	\$211,782,000	\$ 52,751,00

Funds are appropriated for construction projects enumerated in the Executive Budget 1974-76, including but not limited to reclamation projects, major items of equipment necessary to execute statutory responsibilities, industrial development projects (including pilot plants related to energy research), construction, renovation, property acquisition, and administrative costs related to design, construction and supervision of such projects.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed \$2,000,000, and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the Commissioner of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

All income from real estate rentals, sales, interest on funds in the capital construction fund including balances at the end of previous fiscal year are appropriated and shall be administered as provided in Chapter 56 of the Kentucky Revised Statutes.

The above General Fund appropriation includes \$1,000,000 during fiscal year 1974-75 to establish an Emergency School Loan Fund to be used by the State Board of Education to make temporary, low interest loans to local school districts to aid in the reconstruction and repair of school facilities damaged by disasters.

PART FOUR RESTRICTED FUNDS

All Restricted Funds received by various officers, departments, boards, commissions, institutions, divisions, and other agencies of state government and all funds balances brought forward from the previous fiscal year are appropriated. Such funds shall be spent as stipulated by the applicable trust or statute. These funds shall be deposited in the State Treasury and maintained in a Restricted Fund group with subsidiary records for specific accounts. Conditions established by the donor or applicable statute shall govern expenditures, except that restricted funds may not be transferred to the Operating Fund Group of accounts as an appropriation for general operations.

PART FIVE BONDED INDEBTEDNESS FUNDS

There is appropriated for the retirement of bonds issued by or authorized by the Commonwealth or its agencies, boards and departments or commissions, the amount necessary to meet the annual debt service.

Revenues pledged as income shall be deposited to the respective revenue accounts from which as first pledge the necessary principal, interest and reserves shall be paid. Any balance after this payment shall be transferred to the operating fund of the applicable agency, office, board, commission or department to be used for general operational expenses authorized under conditions established by the Trust Indenture.

**PART SIX
GENERAL PROVISIONS**

1. The appropriations listed herein to the various officers, departments, boards, commissions, institutions, subdivisions, and agencies of State Government from Agency Funds and/or Agency Receipts for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, consist of all of the fees (which include fees for board and room, athletics and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, and other miscellaneous receipts produced or received by any agency of the State Government, except as otherwise specifically provided, for the use and benefit of the agencies of the State Government for the purposes for which each fund is authorized. All funds received are appropriated. Such funds shall be deposited in the State Treasury and credited to the appropriate fund shown as provided in KRS Chapters 12, 42, 45.

In the event the sum of receipts received and credited to any Revolving or Trust and Agency Fund Account during fiscal year 1974-75 or fiscal year 1975-76 (plus the balance forwarded to the credit of any such account from the previous fiscal year) exceeds the appropriation shown, the Executive Department for Finance and Administration may approve, during the year in which the excess occurs, the use of such excess to replace other funds anticipated but not received, to meet increased program costs, or to reduce the General Fund allotments. Excess funds may not be used to increase the expenditure base of recurring General Funds for the next biennium.

In the event receipts received and credited to any Revolving or Trust and Agency Fund plus any balance forwarded to the credit of any such account from the previous fiscal year are less than the appropriation, the expenditure level shall be reduced by the Executive Department for Finance and Administration to the amount of such funds available.

On or before June 1, 1974 for fiscal year 1974-75 and on or before June 1, 1975, for fiscal year 1975-76, each agency shall submit to the Executive Department for Finance and Administration schedules showing estimated receipts by source and by program, which are anticipated to be received each quarter of the fiscal year.

2. Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1974, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Commissioner of the Executive Department for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1974-76 and supporting work papers, as considered by the General Assembly, and the decision of the Commissioner of the Executive Department for Finance and Administration shall be final and conclusive.

3. The Commissioner of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Departments of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. Any reimbursements received from Federal Funds under this system or formula shall accrue to the General Expenditure Fund and any system or formula for the proration shall be developed pursuant to the provisions of KRS 18.330.

4. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

5. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 45, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

6. In the event prior year service credit for military service in Kentucky Retirement Systems is authorized by the General Assembly, up to \$500,000 in fiscal year 1974-75 and \$500,000 in fiscal year 1975-76 is appropriated for employer contributions. These funds shall be allotted from the "contingency" funds appropriated to the Executive Department for Finance and Administration for non-recurring expenditures in the Capital Construction funds.

7. In the event General Fund Surplus at the close of books for fiscal year 1973-74 plus the revised estimates for General Fund Revenue for fiscal year 1974-75 exceed \$913,524,045, any excess up to a maximum of \$2,847,050, may be used to reduce in-state tuition at the University of Louisville an additional \$75 each year of the biennium. The \$2,847,050 (\$935,550 for 1974-75 and \$1,911,500 for 1975-76) shall be appropriated to the Council on Public Higher Education for allotment to the University of Louisville upon

reduction of such tuition. The \$1,911,500 shall not lapse at the end of fiscal year 1974-75.

8. Nothing in this Act shall prevent the Department of Education from converting from the classroom unit basis of calculating the Foundation Program to the weighted pupil cost unit approach in 1975-76 except that no school district shall receive less funds under the pupil cost unit approach than received under the classroom unit calculation. It is the intent of the General Assembly to convert to the pupil cost unit approach basis of calculation as soon as the necessary data, weighted factors, and approved procedures are available. The Department of Education shall submit by January 1, 1975, to the Governor and to the Legislative Research Commission, a plan for converting to the pupil cost unit approach.

Notwithstanding the provision of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of fiscal years 1973-74 and 1974-75 shall lapse to the General Expenditure Fund; provided, however, that if a change in the Foundation Program is approved by the General Assembly and if the Department of Education submits an acceptable plan, by January 1, 1975, to the Governor and the Legislative Research Commission for conversion to the Weighted pupil cost unit approach of calculating Foundation Program aid, any balance, not to exceed \$5,500,000, remaining in the Foundation Program fund at the end of the 1974-75 fiscal year may, with the approval of the Commissioner of the Executive Department for Finance and Administration and the Governor, continue into fiscal year 1975-76 to make such conversion and to ensure that no public local school district shall receive less funds as a result of converting to the pupil cost unit approach of calculating Foundation Program allotments than would have been received under the classroom unit method of calculation now in effect.

9. At such time as the Congress of the United States may enact into law a provision increasing or extending coverage of Federal minimum wage requirements now in effect, the Commissioner of the Executive Department for Finance and Administration with the approval of the Governor, shall be authorized to pay, out of any available General Fund Surplus, to those state employees affected by such increase, an amount necessary to raise their respective compensation to a level consistent with the requirements of any such newly enacted provision increasing minimum wage requirements.

10. Funds necessary to continue existing revolving accounts are appropriated for each fiscal year of the 1974-76 biennium. Any surplus funds in any such account at the closing of books for the fiscal year shall lapse. If any revolving account is abolished, or funds therein are lapsed during the 1974-76 biennium, such funds shall lapse to the General Expenditure Fund if such General Funds were in part or in whole used to establish or sustain the revolving fund. If no general funds were involved, funds shall be returned to the original source.

11. WHEREAS, the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, department, board, commission, institution, agency, or other activity or subdivision of the State Government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing from General Fund taxes, from the State Road taxes, from various fees or from Federal funds from which these appropriations are made, can only be anticipated through existing laws and those that may hereinafter be enacted, and recognizing the complex nature of the economy and the impact the energy crisis may have upon it, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any fund for the same fiscal year respectively.

Recognizing the uncertainties in the economy and the problems in forecasting revenue, together with the unreliability of Federal funds under the present national administration policies, the Commissioner of the Executive Department for Finance and Administration is hereby granted authorization to adjust sources of funds within appropriations for programs authorized herein; to delay initiation of expansion or new programs planned and identified in the Executive Budget 1974-76; to increase funds for existing program requirements when inflationary costs exceed the increase authorized in the budget, and, specifically, to adjust budgets to cover exceptional increases in fuel costs and institutional subsistence costs. The Commissioner, Department of Revenue shall by May 31, 1974, for fiscal year 1974-75 and by May 31, 1975, for fiscal year 1975-76 provide to the Governor and a copy to the Joint Committee on Appropriations and Revenue a revised estimate of revenue. Based upon this estimate the Commissioner of the Executive Department for Finance and Administration shall submit to the Governor with a copy to the Joint Committee on Appropriations and Revenue a proposed revised budget if: (1) the estimate plus surplus from the previous year is less than projected in the Executive Budget 1974-76; or (2) if the estimate plus surplus from the previous fiscal year exceeds the amount projected in the Executive Budget 1974-76. The descending priorities for reduction shall be: (1) continuation of existing service levels; (2) increases required by Federal or state law; (3) extra-ordinary inflationary increases in current expenses; (4) expansion of services recommended in the Executive Budget 1974-76; (5) renovation of existing facilities; (6) new programs included in the Executive Budget 1974-76; and (7) new capital projects listed in the Kentucky Executive Budget. Surplus from fiscal year 1973-74 brought forward into fiscal year 1974-75 when combined with the revised estimate of General Fund revenue exceeding \$916,371,095 is appropriated for allocation in fiscal year 1974-75 on the following priorities: (1) statutory increases not included in the budget and appropriation; (2) loss of funds anticipated in the budget as a source

of income, which loss would otherwise cause a reduction in service delivery; (3) extra-ordinary inflationary increases which would otherwise cause a reduction in service delivery; (4) overruns on renovation projects listed in the budget document; and (5) overruns on new capital construction projects listed in the budget document.

Surplus from fiscal year 1974-75 brought forward into fiscal year 1975-76 when combined with the revised estimate of General Fund revenue exceeding \$933,485,645, is appropriated for allocation in fiscal year 1975-76 on the same priority set forth for 1974-75.

The adjustments authorized above shall apply to both current state revenue and non-recurring funds; although the use of the non-recurring funds for recurring expenses shall be clearly identified in the revised budget and shall be kept to a minimum.

If the May 31st estimates show an increase above projections in the Executive Budget 1974-76 for any fund and a decrease in others, transfers between funds shall be permitted up to the expenditure level set forth herein except that road funds may not be used for other than road fund or road fund related purposes.

The Governor shall consult with the Joint Committee on Appropriations and Revenue in his review of the proposed budget revision and shall indicate his decision by an official Executive Order.

12. No state agency, department or office shall incur obligations, unless such planned obligation is set forth in the Executive Budget or by statute; raise fees; accept grants; or use fund balances to increase the base of the state General Fund expenditure level set forth herein.

Any General Fund appropriation to replace anticipated loss of Federal funds, shall lapse to the General Expenditure Fund to the extent such Federal funds are received.

13. The Commissioner of the Executive Department for Finance and Administration, in the manner set forth and as provided by general law, is authorized, empowered and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to need, without discrimination, the appropriations made herein to any officer, department, board, commission, institution, subdivision, agency, or other activity of the State Government, provided however, that the power vested shall not permit any reduction of the appropriation of any officer, department, board, commission, institution, subdivision, agency, or other activity of the State Government that will actually impair the necessary constitutional functions of any such agency or activity, the operations and functions of which are determined to be necessary constitutional functions of State Government. Such adjustments shall be reviewed with the Joint Committee on Appropriations and Revenue before the reduction is made, and shall apply to changes in revenue or expenditure estimates after the fiscal year begins.

The Committee Substitute for **HB 288** is as follows:

HB 288, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART ONE OPERATING FUND GROUP

Funds are appropriated for the fiscal year July 1, 1973 through June 30, 1974; fiscal year July 1, 1974, through June 30, 1975; and fiscal year July 1, 1975, through June 30, 1976 to the operating fund group from the sources of appropriation enumerated below each budget unit, including current receipts plus lapsed funds and any unappropriated surplus from the preceding fiscal years, in the amounts stated for the following officers, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, and 45 of the Kentucky Revised Statutes.

I. GENERAL GOVERNMENT			
	1974-75	1975-76	
1. Governor	\$ 715,200	\$ 784,500	
Source of Appropriation:			
General Fund	\$ 715,200	\$ 784,500	

		1974-75	1975-76
2.	Lieutenant Governor	\$ 157,100	\$ 157,100
	Source of Appropriation:		
	General Fund	\$ 157,100	\$ 157,100

		1974-75	1975-76
3.	Auditor of Public		
	Accounts	\$ 642,800	\$ 669,700
	Source of Appropriation:		
	General Fund	\$ 360,100	\$ 377,700
	Federal Revenue		
	Sharing Fund	\$ 80,500	\$ 82,100
	Agency Receipts	\$ 202,200	\$ 209,900
	TOTAL	\$ 642,800	\$ 669,700

		1974-75	1975-76
4.	Department of Law	\$ 1,093,700	\$ 1,135,900
	Source of Appropriation:		
	General Fund	\$ 1,093,700	\$ 1,135,900

		1974-75	1975-76
5.	Secretary of State		
	a. General Operations	\$ 570,400	\$ 540,300
	b. Restoration of Land		
	Grant Books	\$ 20,000	\$ 20,000
	TOTAL	\$ 590,400	\$ 560,300
	Source of Appropriation:		
	General Fund	\$ 590,400	\$ 560,300

Notwithstanding the provisions of KRS 271.055, KRS 56.300, and KRS 271.121; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Expenditure Fund.

		1974-75	1975-76
6.	Board of Elections	\$ 735,300	\$ 779,400
	Source of Appropriation:		
	General Fund	\$ 735,300	\$ 779,400

The sum of \$360,000 from the appropriation for the 1974-75 fiscal year, and \$370,000 from the appropriation for the 1975-76 fiscal year is provided to pay the state's share of county election expenses (KRS 118.450). Any unexpended amount remaining at the end of each fiscal year shall lapse to the General Expenditure Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

		1974-75	1975-76
7.	Treasurer	\$ 704,400	\$ 731,200
	Source of Appropriation:		
	General Fund	\$ 648,000	\$ 674,800
	Agency Receipts	\$ 56,400	\$ 56,400
	TOTAL	\$ 704,400	\$ 731,200

	1974-75	1975-76
8. Capital Plaza	\$ 4,764,800	\$ 4,720,300
Source of Appropriation:		
General Fund	\$ 3,639,800	\$ 3,587,500
Agency Receipts	\$ 1,125,000	\$ 1,132,800
TOTAL	\$ 4,764,800	\$ 4,720,300

	1974-75	1975-76
9. General Contingency		
Fund	\$ 1,000,000	\$ 1,000,000
Source of Appropriation:		
General Fund	\$ 1,000,000	\$ 1,000,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1974-75 fiscal year shall not lapse, but shall continue into the 1975-76 fiscal year.

	1974-75	1975-76
10. County Costs	\$ 7,466,000	\$ 7,666,000
Source of Appropriation:		
General Fund	\$ 6,500,000	\$ 6,700,000
Agency Receipts	\$ 966,000	\$ 966,000
TOTAL	\$ 7,466,000	\$ 7,666,000

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from surplus by the Commissioner of the Executive Department for Finance and Administration.

	1974-75	1975-76
11. County Fees	\$ 8,274,500	\$ 8,678,200
A. County Fees for the following Counties:		
Jefferson, Kenton,		
Fayette, Campbell,		
Hardin, and Daviess		
Source of Appropriation:		
Agency Receipts	\$ 8,274,500	\$ 8,678,200

Funds are appropriated for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Commissioner of the Executive Department for Finance and Administration, and to pay to the Fiscal Court of each of said counties twenty-five percent (25%) of said fees as required by KRS 64.350.

	1974-75	1975-76
12. Executive Department for Finance and Administration	\$ 19,491,500	\$ 20,008,700
Source of Appropriation:		
General Fund	\$ 8,742,000	\$ 8,694,300
Agency Receipts	\$ 9,619,500	\$ 10,184,400
Federal Funds	\$ 1,130,000	\$ 1,130,000
TOTAL	\$ 19,491,500	\$ 20,008,700

The portion of the above appropriation budgeted for the State Planning Fund, \$1,600,000, in each year of the 1974-76 biennium, may be transferred to other major program areas for the purpose of funding planning studies approved by the State Planning Committee. Not less than \$300,000 of the State Planning Fund shall be used for research and technical assistance to the state's Area Development Districts in each year of the biennium.

	1974-75	1975-76
13. General Obligation Bonds		
Debt Service	\$ 10,368,300	\$ 10,378,400
Source of Appropriation:		
General Fund	\$ 10,368,300	\$ 10,378,400
For the principal and interest on bonds issued to pay veterans' bonuses, on general obligation park bonds, and on 1965 general obligation bonds.		

	1974-75	1975-76
14. Commission on Human Rights	\$ 413,700	\$ 434,000
Source of Appropriation:		
General Fund	\$ 363,700	\$ 381,500
Federal Revenue Sharing Fund	\$ 50,000	\$ 52,500
TOTAL	\$ 413,700	\$ 434,000

	1974-75	1975-76
15. Kentucky Housing Corporation	\$ 147,600	\$ 148,000
Source of Appropriation:		
Agency Receipts	\$ 147,600	\$ 148,000

	1974-75	1975-76
16. Kentucky Retirement Systems	\$ 504,600	\$ 529,500
Source of Appropriation:		
Agency Receipts	\$ 504,600	\$ 529,500

	1974-75	1975-76
17. Department of Military Affairs	\$ 1,974,200	\$ 1,824,700
Source of Appropriation:		
General Fund	\$ 1,307,400	\$ 1,279,900
Federal Funds	\$ 580,500	\$ 537,100
Federal Revenue Sharing Fund	\$ 86,300	\$ 7,700
TOTAL	\$ 1,974,200	\$ 1,824,700

	1974-75	1975-76
18. Occupational and Professional Boards and Commissions		

A.	Board of Accountancy	\$ 57,400	\$ 60,000
	Source of Appropriation:		
	Agency Receipts	\$ 57,400	\$ 60,000
		1974-75	1975-76
B.	Board of Examiners and Registration of Architects	\$ 40,000	\$ 36,000
	Source of Appropriation:		
	Agency Receipts	\$ 40,000	\$ 36,000
		1974-75	1975-76
C.	Kentucky Athletic Commission	\$ 35,500	\$ 35,500
	Source of Appropriation:		
	General Fund	\$ 35,500	\$ 35,500
		1974-75	1975-76
D.	Board of Auctioneers	\$ 33,000	\$ 33,000
	Source of Appropriation:		
	Agency Receipts	\$ 33,000	\$ 33,000
		1974-75	1975-76
E.	Board of Barbers	\$ 76,700	\$ 79,700
	Source of Appropriation:		
	Agency Receipts	\$ 76,700	\$ 79,700
		1974-75	1975-76
F.	Board of Business Schools	\$ 7,900	\$ 8,000
	Source of Appropriation:		
	Agency Receipts	\$ 7,900	\$ 8,000
		1974-75	1975-76
G.	Board of Chiropractic Examiners	\$ 27,000	\$ 27,000
	Source of Appropriation:		
	Agency Receipts	\$ 27,000	\$ 27,000
		1974-75	1975-76
H.	Board of Dental Exam- iners	\$ 58,000	\$ 61,000
	Source of Appropriation:		
	Agency Receipts	\$ 58,000	\$ 61,000
		1974-75	1975-76
I.	Board of Embalmers and Funeral Directors	\$ 31,600	\$ 31,600
	Source of Appropriation:		
	Agency Receipts	\$ 31,600	\$ 31,600
		1974-75	1975-76
J.	Board of Professional Engineers	\$ 98,000	\$ 95,200
	Source of Appropriation:		
	Agency Receipts	\$ 98,000	\$ 95,200
		1974-75	1975-76
K.	Board of Hairdressers and Cosmetologists	\$ 265,600	\$ 273,800
	Source of Appropriation:		
	Agency Receipts	\$ 265,600	\$ 273,800
		1974-75	1975-76
L.	Board of Landscape Architects	\$ 7,000	\$ 7,000
	Source of Appropriation:		
	Agency Receipts	\$ 7,000	\$ 7,000
		1974-75	1975-76
M.	Board of Medical Li- censure	\$ 95,200	\$ 97,200
	Source of Appropriation:		

	Agency Receipts	\$ 95,200	\$ 97,200
		1974-75	1975-76
N.	Board of Nursing	\$ 180,500	\$ 189,600
	Source of Appropriation:		
	Agency Receipts	\$ 180,500	\$ 189,600
		1974-75	1975-76
O.	Board of Ophthalmic Dis-		
	pensers	\$ 6,300	\$ 6,500
	Source of Appropriation:		
	Agency Receipts	\$ 6,300	\$ 6,500
		1974-75	1975-76
P.	Board of Optometric		
	Examiners	\$ 12,200	\$ 12,200
	Source of Appropriation:		
	Agency Receipts	\$ 12,200	\$ 12,200
		1974-75	1975-76
Q.	Board of Pharmacy	\$ 108,500	\$ 110,700
	Source of Appropriation:		
	Agency Receipts	\$ 108,500	\$ 110,700
		1974-75	1975-76
R.	Board of Physical		
	Therapy	\$ 7,000	\$ 6,500
	Source of Appropriation:		
	Agency Receipts	\$ 7,000	\$ 6,500
		1974-75	1975-76
S.	Board of Podiatry	\$ 600	\$ 700
	Source of Appropriation:		
	Agency Receipts	\$ 600	\$ 700
		1974-75	1975-76
T.	Board of Psychology	\$ 9,900	\$ 10,600
	Source of Appropriation:		
	Agency Receipts	\$ 9,900	\$ 10,600
		1974-75	1975-76
U.	Real Estate Commission	\$ 369,500	\$ 376,900
	Source of Appropriation:		
	Agency Receipts	\$ 369,500	\$ 376,900
		1974-75	1975-76
V.	Board of Speech Patholo-		
	gists and Audiologists	\$ 2,900	\$ 2,300
	Source of Appropriation:		
	Agency Receipts	\$ 2,900	\$ 2,300
		1974-75	1975-76
W.	Board of Veterinary		
	Examiners	\$ 11,000	\$ 11,000
	Source of Appropriation:		
	Agency Receipts	\$ 11,000	\$ 11,000
		1974-75	1975-76
X.	Board of Watchmaking	\$ 8,000	\$ 8,000
	Source of Appropriation:		
	Agency Receipts	\$ 8,000	\$ 8,000

		1974-75	1975-76
19.	Department of Personnel	\$ 1,908,800	\$ 1,938,700
	Source of Appropriation:		
	General Fund	\$ 1,569,000	\$ 1,598,700
	Agency Receipts	\$ 200,000	\$ 200,000
	Federal Funds	\$ 139,800	\$ 140,000
	TOTAL	\$ 1,908,800	\$ 1,938,700

Notwithstanding the provisions of KRS 18.330, the above Department of Personnel appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Expenditure Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Commissioner of the Executive Department for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof, whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of the court reporters, the printing or other reproduction expenses related to transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to Circuit Court of the Court of Appeals, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof, whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, including, but not limited to, legal fees and court costs and fees.

	1974-75	1975-76
20. Department of Public Information	\$ 2,504,600	\$ 2,940,200
Source of Appropriation:		
General Fund	\$ 2,504,600	\$ 2,940,200

The sum of \$240,400 from the appropriation for the 1974-75 fiscal year, and \$329,700 from the appropriation for the 1975-76 fiscal year may be used for a cooperative advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

	1974-75	1975-76
21. Department of Revenue	\$ 13,013,100	\$ 13,596,900
Source of Appropriation:		
General Fund	\$ 12,893,100	\$ 13,503,600
Federal Funds	\$ 120,000	\$ 93,300
TOTAL	\$ 13,013,100	\$ 13,596,900

The appropriation of General Funds includes \$3,917,600 in fiscal year 1974-75 and \$4,156,500 in fiscal year 1975-76 for property valuation administrators; and any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

	1974-75	1975-76
22. Appropriations Not Otherwise Classified		
A. Back Tax Collections	Amount Necessary	Amount Necessary
	1974-75	1975-76
B. Board of Claims Awards	Amount Necessary	Amount Necessary

Funds are appropriated for the payment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund; provided, however, that awards under \$500 in cases where the operating department admits negligence shall be paid from funds available for the operations of such departments.

	1974-75	1975-76
C. Judgments	Amount Necessary	Amount Necessary

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; provided, however, that such payments shall be approved in advance by the Attorney General, and such payments, where applicable, shall be subject to the provisions of KRS 45.

1974-75	1975-76
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D. Prior Year Claims	Amount Necessary 1974-75	Amount Necessary 1975-76
E. Unredeemed Checks Refunded	Amount Necessary 1974-75	Amount Necessary 1975-76
Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.		
F. Confederate Pensions	\$ 600	\$ 600
Source of Appropriation: General Fund	\$ 600 1974-75	\$ 600 1975-76
G. Blanket Employees Surety Bonds	Amount Necessary 1974-75	Amount Necessary 1975-76
For payment of premiums on blanket surety bonds as provided by KRS 62.170.		
H. Franklin Circuit Court	\$ 300	\$ 300
Source of Appropriation: General Fund	\$ 300 1974-75	\$ 300 1975-76
For purposes of supplies and equipment in accordance with KRS 28.165.		
I. Frankfort Planning Commission	\$ 1,000	\$ 1,000
Source of Appropriation: General Fund	\$ 1,000 1974-75	\$ 1,000 1975-76
J. Frankfort Cemetery	\$ 1,000	\$ 1,000
Source of Appropriation: General Fund	\$ 1,000 1974-75	\$ 1,000 1975-76
K. Public Improvements	Amount Necessary 1974-75	Amount Necessary 1975-76
Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.		
L. Special Legislative Claims	Amount Necessary 1974-75	Amount Necessary 1975-76
M. Money Refunded	Amount Necessary 1974-75	Amount Necessary 1975-76
Funds are appropriated for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Commissioner of the Executive Department for Finance and Administration and the Attorney General.		
N. Police and Firemen Death Benefits	Amount Necessary 1974-75	Amount Necessary 1975-76
Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.		

II. PUBLIC PROTECTION AND REGULATION

	1974-75	1975-76
23. Alcoholic Beverage Control	\$ 534,900	\$ 547,400
Source of Appropriation: General Fund	\$ 532,900	\$ 545,400
Agency Receipts	\$ 2,000	\$ 2,000
TOTAL	\$ 534,900	\$ 547,400

		1974-75	1975-76
24.	Banking and Securities	\$ 1,115,000	\$ 1,189,900
	Source of Appropriation:		
	General Fund	\$ 1,115,000	\$ 1,189,900
Notwithstanding the provisions of KRS 47.130, all receipts collected by the Department shall be paid into the General Expenditure Fund.			

		1974-75	1975-76
25.	Board of Tax Appeals	\$ 93,900	\$ 95,300
	Source of Appropriation:		
	General Fund	\$ 93,900	\$ 95,300

		1974-75	1975-76
26.	Department of Insurance	\$ 2,825,200	\$ 2,987,900
	Source of Appropriation:		
	General Fund	\$ 2,013,900	\$ 2,149,400
	Agency Receipts	\$ 255,000	\$ 255,000
	Federal Funds	\$ 60,000	\$ 60,000
	Federal Revenue		
	Sharing Fund	\$ 496,300	\$ 523,500
	TOTAL	\$ 2,825,200	\$ 2,987,900

Notwithstanding any provisions of KRS 304.4-020 and 136.360 to the contrary, all receipts collected by the Department of Insurance shall be placed to the credit of the General Expenditure Fund, except receipts received under the provisions of KRS 304.8-190 and KRS 304.2-300; (At the end of fiscal year 1973-74 and fiscal year 1974-75 any excess up to \$10,000 collected under KRS 304.2-300 shall carry forward into the succeeding fiscal year); and all receipts collected in the Fire and Tornado Insurance Fund.

		1974-75	1975-76
27.	Department of Labor	\$ 29,350,800	\$ 30,536,100
	Source of Appropriation:		
	General Fund	\$ 726,300	\$ 753,900
	Agency Receipts	\$ 27,620,400	\$ 28,742,300
	Federal Funds	\$ 1,004,100	\$ 1,039,900
	TOTAL	\$ 29,350,800	\$ 30,536,100

Funds are appropriated for the general operations of the Department of Labor; provided, however, that the amount of General Fund support of the Division of Research and Statistics and the Division of Fiscal and Personnel shall not exceed twenty-five (25%) of the total cost of these divisions.

		1974-75	1975-76
28.	Department of Mines and Minerals	\$ 1,535,500	\$ 1,509,600
	Source of Appropriation:		
	General Fund	\$ 1,011,400	\$ 1,019,100
	Agency Receipts	\$ 82,000	\$ 82,000
	Federal Funds	\$ 220,000	\$ 230,000
	Federal Revenue		
	Sharing Fund	\$ 222,100	\$ 178,500
	TOTAL	\$ 1,535,500	\$ 1,509,600

	1974-75	1975-76
29. Office of Secretary for Public Protection and Regulation	\$ 205,900	\$ 212,100
Source of Appropriation: General Fund	\$ 205,900	\$ 212,100

	1974-75	1975-76
30. Public Service Commis- sion	\$ 997,700	\$ 1,036,600
Source of Appropriation: General Fund	\$ 847,200	\$ 885,300
Agency Receipts	\$ 116,400	\$ 117,200
Federal Funds	\$ 34,100	\$ 34,100
TOTAL	\$ 997,700	\$ 1,036,600

	1974-75	1975-76
31. Quarter Horse and Appaloosa Horse Commission	\$ 22,500	\$ 24,000
Source of Appropriation: General Fund	\$ 10,000	\$ 10,000
Agency Receipts	\$ 12,500	\$ 14,000
TOTAL	\$ 22,500	\$ 24,000

	1974-75	1975-76
32. Racing Commission	\$ 507,900	\$ 519,900
Source of Appropriation: General Fund	\$ 160,900	\$ 166,900
Agency Receipts	\$ 347,000	\$ 353,000
TOTAL	\$ 507,900	\$ 519,900

	1974-75	1975-76
33. Registry of Election Finance	\$ 55,100	\$ 56,000
Source of Appropriation: General Fund	\$ 55,100	\$ 56,000

	1974-75	1975-76
34. Trotting Commission	\$ 315,200	\$ 332,900
Source of Appropriation: General Fund	\$ 173,500	\$ 182,700
Agency Receipts	\$ 141,700	\$ 150,200
TOTAL	\$ 315,200	\$ 332,900

III. DEVELOPMENT

	1974-75	1975-76
35. Council on Economic Advisors	\$ 92,000	\$ 92,500

Source of Appropriation:
General Fund

\$ 92,000 \$ 92,500

	1974-75	1975-76
36. Office of Secretary for Development	\$ 2,583,100	\$ 3,406,400
Source of Appropriation:		
General Fund	\$ 2,040,600	\$ 2,481,400
Agency Receipts	\$ 380,000	\$ 665,000
Federal Funds	\$ 162,500	\$ 260,000
TOTAL	\$ 2,583,100	\$ 3,406,400

	1974-75	1975-76
37. Department of Commerce	\$ 2,861,400	\$ 2,998,900
Source of Appropriation:		
General Fund	\$ 2,680,400	\$ 2,817,900
Agency Receipts	\$ 31,000	\$ 31,000
Federal Funds	\$ 150,000	\$ 150,000
TOTAL	\$ 2,861,400	\$ 2,998,900

	1974-75	1975-76
38. Kentucky Industrial Development Finance Authority	\$ 705,000	\$ 705,000
Source of Appropriation:		
General Fund	\$ 300,000	\$ 300,000
Agency Receipts	\$ 405,000	\$ 405,000
TOTAL	\$ 705,000	\$ 705,000

	1974-75	1975-76
39. Department of Parks	\$ 21,735,600	\$ 22,656,300
Source of Appropriation:		
General Fund	\$ 10,615,400	\$ 11,065,500
Agency Receipts	\$ 11,120,200	\$ 11,590,800
TOTAL	\$ 21,735,600	\$ 22,656,300

	1974-75	1975-76
40. Breaks Interstate Park	\$ 125,500	\$ 125,500
Source of Appropriation:		
General Fund	\$ 125,500	\$ 125,500

	1974-75	1975-76
41. Department of Agriculture	\$ 4,260,100	\$ 4,421,700
Source of Appropriation:		
General Fund	\$ 3,466,700	\$ 3,646,100
Agency Receipts	\$ 328,000	\$ 310,100
Federal Funds	\$ 412,900	\$ 465,500
Federal Revenue		

Sharing Fund	\$ 52,500	
TOTAL	\$ 4,260,100	\$ 4,421,700

	1974-75	1975-76
42. State Fair Board	\$ 3,673,000	\$ 3,712,000
Source of Appropriation:		
General Fund	\$ 575,000	\$ 650,000
Agency Receipts	\$ 3,048,000	\$ 3,062,000
Federal Revenue		
Sharing Fund	\$ 50,000	
TOTAL	\$ 3,673,000	\$ 3,712,000

	1974-75	1975-76
43. Historical Events Celebration Commission	\$ 190,000	\$ 190,000
Source of Appropriation:		
General Fund	\$ 150,000	\$ 150,000
Federal Funds	\$ 40,000	\$ 40,000
TOTAL	\$ 190,000	\$ 190,000

	1974-75	1975-76
44. Department of Fish and Wildlife	\$ 6,300,600	\$ 6,686,700
Source of Appropriation:		
Agency Receipts	\$ 4,400,600	\$ 4,913,700
Federal Funds	\$ 1,900,000	\$ 1,773,000
TOTAL	\$ 6,300,600	\$ 6,686,700

IV. EDUCATION
IV. A. EDUCATION AND THE ARTS

	1974-75	1975-76
45. Advisory Council for Vocational Education and Manpower Development and Training	\$ 47,400	\$ 50,000
Source of Appropriation:		
Federal Funds	\$ 47,400	\$ 50,000

	1974-75	1975-76
46. Arts Commission	\$ 405,500	\$ 470,100
Source of Appropriation:		
General Fund	\$ 225,800	\$ 290,400
Federal Funds	\$ 179,700	\$ 179,700
TOTAL	\$ 405,500	\$ 470,100

	1974-75	1975-76
47. Department of Education		
A. Elementary and Secondary Education	\$392,582,200	\$434,043,800

Source of Appropriation:

General Fund	\$323,131,200	\$362,711,200
Agency Receipts	\$ 832,700	\$ 758,900
Federal Funds	\$ 68,502,100	\$ 70,573,700
Federal Revenue		
Sharing Fund	\$ 116,200	
TOTAL	\$392,582,200	\$434,043,800

The above appropriations in 47 A. are to be distributed as follows:

	1974-75	1975-76
(1) General Operations	\$ 82,863,800	\$ 86,043,300

Source of Appropriation:

General Fund	\$ 13,412,800	\$ 14,711,700
Agency Receipts	\$ 832,700	\$ 758,900
Federal Funds	\$ 68,502,100	\$ 70,573,700
Federal Revenue		
Sharing Fund	\$ 116,200	
TOTAL	\$ 82,863,800	\$ 86,043,300

(a) The appropriations in 47 A (1) include the following amounts for use by Kentucky School for the Blind:

	1974-75	1975-76
General Fund	\$ 822,700	\$ 870,000
Agency Receipts	\$ 2,000	\$ 2,000
Federal Funds	\$ 53,000	\$ 55,900
Federal Revenue		
Sharing Fund	\$ 48,400	
TOTAL	\$ 926,100	\$ 927,900

(b) The appropriations in 47 A (1) include the following amounts for use by Kentucky School for the Deaf:

	1974-75	1975-76
General Fund	\$ 1,648,000	\$ 1,760,100
Agency Receipts	\$ 9,700	\$ 9,800
Federal Funds	\$ 120,500	\$ 126,800
Federal Revenue		
Sharing Fund	\$ 67,800	
TOTAL	\$ 1,846,000	\$ 1,896,700

(c) The appropriations in 47 A (1) include the following amounts for the purchase of textbooks in accordance with KRS 157.100, *et seq.*, and applicable regulations:

	1974-75	1975-76
General Fund	\$ 3,429,000	\$ 3,600,500

(d) The appropriations in 47 A (1) include the following amounts for use by the Committee for School District Audits:

	1974-75	1975-76
General Fund	\$ 216,000	\$ 233,300

(e) The appropriations in 47 A (1) include the following amounts for the state match of federal school lunch funds:

	1974-75	1975-76
General Fund	\$ 1,433,200	\$ 1,900,000

(f) The appropriations in 47 A (1) include the following amounts for providing \$3,000 of life insurance coverage for each certificated and non-certificated employee of boards of education:

	1974-75	1975-76
General Fund	\$ 675,100	\$ 692,900

(g) The appropriations in 47 A (1) include the following amounts for use in providing an education to out-of-district children:

	1974-75	1975-76
General Fund	\$ 360,600	\$ 374,800

(2) School Foundation Program

Source of Appropriation:

General Fund	\$309,718,400	\$348,000,500
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Accumulated earnings of the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1974-75 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 Years	\$ 7,740	\$7,190	\$6,640	\$2,900	\$2,600
4-9 Years	\$ 8,820	\$8,270	\$7,740	\$2,900	\$2,600
10 Years & Over	\$ 9,440	\$8,890	\$8,360	\$2,900	\$2,600

Beginning with the school year 1975-76, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 Years	\$ 8,440	\$7,840	\$7,240	\$2,900	\$2,600
4-9 Years	\$ 9,610	\$9,010	\$8,440	\$2,900	\$2,600
10 Years & Over	\$10,290	\$9,690	\$9,110	\$2,900	\$2,600

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board of Education, and said Board shall accept such certified determination as final.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1), shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as follows:

- (1) One-teacher schools;
- (2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and
- (3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance, or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Allotments, provision for which is made under this Act, for classroom units pursuant to KRS 157.360(4), (5), and (9) shall be as follows:

	1973-74	1974-75	1975-76
Vocational Education	1,780	2,035	2,230
Exceptional Children	1,360	1,860	2,460
Kindergarten	100	150	200

Provided, however, that if classroom units in either category prove to be excessive, the surplus not to exceed fifty (50) such classroom units may be reallocated to the other category by the Superintendent of Public Instruction, upon approval of the State Board of Education and the Commissioner of the Executive

Department for Finance and Administration.

Allotments for classroom units pursuant to KRS 157.360(6) shall only be for those personnel enumerated under said subsection who are qualified for their respective positions under applicable provisions of law and regulations, and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses shall be determined by multiplying the number of classroom units by: \$1,680 in the 1974-75 school year and \$1,830 in the 1975-76 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: \$1,400 in the 1974-75 school year and \$1,550 in the 1975-76 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children; provided, however, that no existing room shall be divided by partitions of nonstructural materials. No classroom units shall be allotted for a second teacher in the same classroom. No facilities shall be approved for classroom use which are detrimental to the health of, or dangerous to the safety of, school children.

If a school district operates any school or grade of a school for a term of less than nine and one-quarter (9-1/4) scholastic months or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 156.650, no unexpended portions of the Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650.

The total appropriation for the Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 *et seq.*. If the required expenditures exceed these estimates, the Commissioner of the Executive Department for Finance and Administration, with approval of the Governor, may increase the appropriations by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, or the total appropriations to the Foundation Program, is subject to the provisions of paragraph 11 Part Six, General Provisions, of this Act and the provisions of KRS 45.160.

	1974-75	1975-76
B. Adult and Continuing Education	\$ 22,688,500	\$ 23,785,500
Source of Appropriation:		
General Fund	\$ 11,732,900	\$ 12,684,900
Agency Receipts	\$ 1,157,900	\$ 1,184,700
Federal Funds	\$ 9,597,700	\$ 9,735,900
Federal Revenue Sharing Fund	\$ 200,000	\$ 180,000
TOTAL	\$ 22,688,500	\$ 23,785,500
	1974-75	1975-76

C. Vocational Rehabilitation	\$ 20,275,100	\$ 20,633,600
Source of Appropriation:		
General Fund	\$ 1,585,800	\$ 1,630,500
Agency Receipts	\$ 1,397,200	\$ 1,478,000
Federal Funds	\$ 17,292,100	\$ 17,525,100
TOTAL	\$ 20,275,100	\$ 20,633,600

The appropriations in 47 C include the following amounts for use by Kentucky Industries for the Blind:

	1974-75	1975-76
General Fund	\$ 180,800	\$ 174,200
Agency Receipts	\$ 347,700	\$ 361,000
TOTAL	\$ 528,500	\$ 535,200
	1974-75	1975-76

D. General Administration and Support	\$ 2,442,900	\$ 2,527,300
Source of Appropriation:		
General Fund	\$ 1,708,100	\$ 1,867,900
Agency Receipts	\$ 977,700	\$ 1,025,300
Federal Funds	\$ 335,100	\$ 351,300

TOTAL \$ 3,020,900 \$ 3,244,500

The above General Fund appropriations include \$578,000 during fiscal year 1974-75 and \$717,200 during fiscal year 1975-76 as contingencies to fund activities in the department which have been funded in fiscal year 1973-74, with funds made available to the department from the Federal Elementary and Secondary Education Act Title V and 402. If Federal funds are not available to fund these activities, the Commissioner of the Executive Department for Finance and Administration, upon the request of the Superintendent of Public Instruction, is authorized to allot and transfer the herein stated General Fund amounts to the programs shown in the budget workpapers as funded during fiscal year 1973-74 from the herein stated Federal sources. If Federal funds are available to finance these activities, the Commissioner of the Executive Department for Finance and Administration shall hold unallotted the herein stated General Fund amounts which shall lapse to the General Expenditure Fund surplus at the end of the fiscal year.

	1974-75	1975-76
48. Educational Television		
Authority	\$ 3,699,500	\$ 4,089,900
Source of Appropriation:		
General Fund	\$ 3,384,200	\$ 3,684,700
Agency Receipts	\$ 80,000	\$ 80,000
Federal Revenue		
Sharing Fund	\$ 235,300	\$ 325,200
TOTAL	\$ 3,699,500	\$ 4,089,900
The appropriations in 48 include the following amounts for each major program area:		
	1974-75	1975-76
Adult and Continuing		
Education	\$ 558,000	\$ 602,000
Cultural Affairs	\$ 351,000	\$ 398,400
Elementary and Secondary		
Education	\$ 1,564,000	\$ 1,822,600
General Administration		
and Support	\$ 1,037,500	\$ 1,050,300
Pre-School	\$ 189,000	\$ 216,600

The General Fund appropriations in 48 include in General Administration and Support \$657,600 in fiscal year 1974-75 and \$652,000 in fiscal year 1975-76 for lease payments to the Department of Education to cover Educational Television Debt Service.

	1974-75	1975-76
49. Heritage Commission	\$ 289,700	\$ 310,500
Source of Appropriation:		
General Fund	\$ 134,400	\$ 140,900
Federal Funds	\$ 155,300	\$ 169,600
TOTAL	\$ 289,700	\$ 310,500

	1974-75	1975-76
50. Historical Society	\$ 652,500	\$ 775,700
Source of Appropriation:		
General Fund	\$ 471,400	\$ 587,000
Agency Receipts	\$ 181,100	\$ 188,700
TOTAL	\$ 652,500	\$ 775,700

	1974-75	1975-76
51. Department of Library		
and Archives	\$ 4,747,300	\$ 5,190,500
A. General Operations	\$ 3,847,300	\$ 4,090,500

B. Local Library Aid (Non-Recurring)	\$ 900,000	\$ 1,100,000
Source of Appropriation:		
General Fund	\$ 3,851,000	\$ 4,302,700
Agency Receipts	\$ 23,500	\$ 15,000
Federal Funds	\$ 422,800	\$ 422,800
Federal Revenue		
Sharing Fund	\$ 450,000	\$ 450,000
TOTAL	\$ 4,747,300	\$ 5,190,500

The appropriations in 51B include funds for non-recurring grants, not to exceed \$5,000 per year for each eligible library, to local public libraries for the purchase of books and library materials; funds to provide non-recurring grants to local public libraries for the construction, reconstruction, and repair of public library facilities, in accordance with administrative regulations established by the Department of Library and Archives - provided, however, that reconstruction and repair grants may not exceed \$15,000 for any project during the biennium; and funds for new construction project grants not to exceed \$135,000 or sixty-five percent (65%) of the total project cost, whichever is the lesser amount. With the written approval of the State Librarian and the Commissioner, Executive Department for Finance and Administration, the maximum grant may exceed these maximums.

IV. B. PUBLIC HIGHER EDUCATION

	1974-75	1975-76
52. Council on Public Higher Education	\$ 4,300,400	\$ 6,402,700
Source of Appropriation:		
General Fund	\$ 2,160,000	\$ 3,059,300
Federal Funds	\$ 89,600	\$ 67,300
Federal Revenue		
Sharing Fund	\$ 2,050,800	\$ 3,276,100
TOTAL	\$ 4,300,400	\$ 6,402,700

Included in the \$4,300,400 appropriation for the 1974-75 fiscal year is \$2,535,900 for General Administration/Coordination and Planning activities and \$1,764,500 for Institutional Pools. Included in the \$6,402,700 appropriation for the 1975-76 fiscal year is \$3,864,200 for General Administration/Coordination and Planning activities and \$2,538,500 for Institutional Pools.

In fiscal year 1974-75, \$500,000, and in fiscal year 1975-76, \$1,000,000, is appropriated to the Council on Public Higher Education for allocation to the state college and universities for enrollment growth, to be distributed in the following manner: On or before May 1, preceding the fiscal year for which the appropriation is available, the State Council on Public Higher Education shall compute and certify to the Office for Policy and Management, Executive Department for Finance and Administration, for allotment purposes, the actual full-time equivalent student growth if any for the preceding fall semester over the enrollment in the fall semester of the prior fiscal year, if any. The basis for the computation shall be the same as that contained in the Council's annual publication entitled *Kentucky College and University Enrollments*, and full-time equivalent students shall be counted in like manner without regard to the level of classification or type of institution. Each college and university's percentage and share of the appropriation in each fiscal year as designated above shall be the same as its percentage and share of the total enrollment growth for all of the state-supported college and universities, except that no institution shall receive more than the average per Full-Time Equivalent student regular General Fund appropriation or the growth pool divided by Full-Time Equivalent student increase, whichever is less.

In fiscal year 1974-75, \$1,000,000, and in fiscal year 1975-76, \$1,000,000, is appropriated to the Council on Public Higher Education for allocation to state college and universities for Health Programs. These funds will provide support to state institutions for health programs which are or will be severely affected by curtailment of Federal funds. As a planned contingency fund, these monies shall not be allocated to the state institutions if Federal funds become available and any funds not allotted shall lapse at the end of each fiscal year.

In fiscal year 1974-75, \$264,450, and in fiscal year 1975-76, \$538,500, is appropriated to the Council on Public Higher Education for allocation to the University of Louisville for tuition income replacement. These funds will provide supplementary monies to allow tuition reduction for University of Louisville in-state, undergraduate students--\$25 in fiscal year 1974-75 and another \$25 in fiscal year 1975-76.

	1974-75	1975-76
53. Higher Education Assistance Authority	\$ 1,268,900	\$ 2,271,700
Source of Appropriation:		
General Fund	\$ 268,900	\$ 271,700
Federal Revenue Sharing Fund	\$ 1,000,000	\$ 2,000,000
TOTAL	\$ 1,268,900	\$ 2,271,700

Loan reserves required are appropriated and continued for each fiscal year.

Of the appropriations, \$1,000,000 in fiscal year 1974-75 and \$2,000,000 in fiscal year 1975-76, shall be used to establish a revolving Student Loan Program.

	1974-75	1975-76
54. Commission on Higher Education	\$ 89,600	\$ 67,300
Source of Appropriation:		
Federal Funds	\$ 89,600	\$ 67,300

	1974-75	1975-76
55. University of Kentucky	\$155,537,800	\$164,202,800
Source of Appropriation:		
General Fund	\$ 74,265,300	\$ 79,463,600
Agency Receipts	\$ 73,786,100	\$ 77,171,600
Federal Funds	\$ 7,486,400	\$ 7,567,600
TOTAL	\$155,537,800	\$164,202,800

	1974-75	1975-76
56. Eastern Kentucky University	\$ 29,422,700	\$ 30,571,700
Source of Appropriation:		
General Fund	\$ 17,273,700	\$ 18,241,600
Agency Receipts	\$ 10,536,500	\$ 10,673,300
Federal Funds	\$ 1,612,500	\$ 1,656,800
TOTAL	\$ 29,422,700	\$ 30,571,700

	1974-75	1975-76
57. Western Kentucky University	\$ 28,329,000	\$ 29,593,600
Source of Appropriation:		
General Fund	\$ 17,589,500	\$ 18,799,900
Agency Receipts	\$ 8,699,500	\$ 8,778,300
Federal Funds	\$ 2,040,000	\$ 2,015,400
TOTAL	\$ 28,329,000	\$ 29,593,600

	1974-75	1975-76
58. Morehead State University	\$ 17,866,400	\$ 18,604,500
Source of Appropriation:		
General Fund	\$ 10,835,200	\$ 11,504,200
Agency Receipts	\$ 5,945,200	\$ 5,954,300
Federal Funds	\$ 1,086,000	\$ 1,146,000

TOTAL \$ 17,866,400 \$ 18,604,500

	1974-75	1975-76
59. Murray State University	\$ 19,507,500	\$ 20,514,100
Source of Appropriation:		
General Fund	\$ 12,337,600	\$ 13,141,100
Agency Receipts	\$ 6,207,600	\$ 6,410,700
Federal Funds	\$ 962,300	\$ 962,300
TOTAL	\$ 19,507,500	\$ 20,514,100

	1974-75	1975-76
60. Kentucky State University	\$ 9,392,600	\$ 9,868,500
Source of Appropriation:		
General Fund	\$ 4,407,700	\$ 4,783,200
Agency Receipts	\$ 2,075,000	\$ 2,075,000
Federal Funds	\$ 2,909,900	\$ 3,010,300
TOTAL	\$ 9,392,600	\$ 9,868,500

Included in the appropriation for Kentucky State University is \$132,000 each fiscal year for Capital Plaza Rent.

	1974-75	1975-76
61. Northern Kentucky State College	\$ 8,947,100	\$ 9,541,700
Source of Appropriation:		
General Fund	\$ 5,925,900	\$ 6,367,100
Agency Receipts	\$ 3,021,200	\$ 3,174,600
Federal Funds		
TOTAL	\$ 8,947,100	\$ 9,541,700

	1974-75	1975-76
62. University of Louisville	\$ 48,783,300	\$ 51,684,100
Source of Appropriation:		
General Fund	\$ 21,821,300	\$ 23,122,200
Agency Receipts	\$ 20,111,900	\$ 20,364,900
Federal Funds	\$ 6,851,000	\$ 7,197,000
TOTAL	\$ 48,783,300	\$ 51,684,100

IV. C. TEACHERS' RETIREMENT SYSTEM

	1974-75	1975-76
63. Teachers' Retirement System	\$ 40,418,700	\$ 41,614,900
Source of Appropriation:		
General Fund	\$ 33,151,300	\$ 36,732,000
Federal Revenue		
Sharing Fund	\$ 7,267,400	\$ 4,882,900
TOTAL	\$ 40,418,700	\$ 41,614,900

The appropriations in 63 include \$7,267,400 in fiscal year 1974-75 and \$4,882,900 in fiscal year 1975-76 to liquidate a part of the state's prior service obligation.

The appropriations in 63 include \$441,800 in fiscal year 1974-75 and \$462,000 in fiscal year 1975-76 for administrative expenses.

The appropriations in 63 include \$3,023,800 in fiscal year 1974-75 and \$3,587,500 in fiscal year 1975-76 to provide a cost-of-living adjustment for retired teachers.

The appropriations in 63 include \$2,698,700 in fiscal year 1974-75 and \$2,971,100 in fiscal year 1975-76 to implement full retirement benefits for 30 years service at age 55; Chapter 168, Acts of the General Assembly of the Commonwealth of Kentucky, Regular Session of 1970 notwithstanding.

V. HUMAN RESOURCES

	1974-75	1975-76
64. Department for Human Resources		
A. General Administration and Support	\$ 16,147,000	\$15,813,000
Source of Appropriation:		
General Fund	\$ 8,791,500	\$ 8,828,000
Agency Receipts	\$ 1,528,500	\$ 1,538,700
Federal Funds	\$ 5,292,000	\$ 5,446,300
Federal Revenue		
Sharing Fund	\$ 535,000	
TOTAL	\$ 16,147,000	\$ 15,813,000
B. Health Services	\$ 77,246,750	\$ 80,808,580
Source of Appropriation:		
General Fund	\$ 40,774,700	\$ 43,354,900
Agency Receipts	\$ 14,989,630	\$ 15,568,060
Federal Funds	\$ 19,867,920	\$ 20,287,120
Federal Revenue		
Sharing Fund	\$ 1,614,500	\$ 1,598,500
TOTAL	\$ 77,246,750	\$ 80,808,580
All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.		
C. Social Services	\$ 31,637,770	\$ 32,269,650
Source of Appropriation:		
General Fund	\$ 13,643,800	\$ 14,076,000
Agency Receipts	\$ 2,124,000	\$ 2,124,000
Federal Funds	\$ 14,803,970	\$ 14,303,650
Federal Revenue		
Sharing Fund	\$ 1,066,000	\$ 1,766,000
TOTAL	\$ 31,637,770	\$ 32,269,650
D. Social Insurance	\$463,165,000	\$485,188,800
Source of Appropriation:		
General Fund	\$ 82,715,400	\$ 94,376,300
Federal Revenue		
Sharing Fund	\$ 65,000	
Federal Funds	\$380,384,600	\$390,812,500
TOTAL	\$463,165,000	\$485,188,800
Any unexpended balance remaining in the benefits portion of the Social Insurance budget at the close of the 1974-75 fiscal year shall not lapse, but shall continue into the 1975-76 fiscal year.		
E. Manpower Services	\$ 14,534,300	\$ 14,553,900
Source of Appropriation:		
General Fund	\$ 560,600	\$ 562,600
Federal Funds	\$ 13,973,700	\$ 13,991,300
TOTAL	\$ 14,534,300	\$ 14,553,900

VI JUSTICE

	1974-75	1975-76
65. Adjudication of Defendants	\$ 6,424,700	\$ 4,941,800
A. Judiciary	\$ 6,424,700	\$ 4,941,800
To be distributed as follows:		
(1) Judiciary-Court of Appeals	\$ 940,500	\$ 954,900
Source of Appropriation:		
General Fund	\$ 914,000	\$ 927,200
Agency Receipts	\$ 26,500	\$ 27,700
TOTAL	\$ 940,500	\$ 954,900
(2) Judiciary-Clerk of Court of Appeals	\$ 136,400	\$ 140,900
Source of Appropriation:		
General Fund	\$ 136,400	\$ 140,900
(3) Judiciary-Circuit Courts	\$ 2,623,500	\$ 2,627,000
Source of Appropriation:		
General Fund	\$ 2,623,500	\$ 2,627,000
This appropriation includes \$469,700 each year of the biennium to pay necessary governmental expenses related to social security for Circuit Clerks, Master Commissioners and Court Reporters; retirement for Circuit Clerks, Master Commissioners, Court Reporters and Assistant Commonwealth Attorneys; and Life and Health Insurance for Circuit Clerks and Commonwealth Attorneys. Any expense in excess of this amount shall be deemed a necessary governmental expense.		
(4) Judiciary-Judicial Retirement System	\$ 2,577,800	\$ 1,078,800
Source of Appropriation:		
General Fund	\$ 1,166,000	\$ 1,078,800
Federal Revenue Sharing Fund	\$ 1,411,800	
TOTAL	\$ 2,577,800	\$ 1,078,800
(5) Judiciary-State Law Library	\$ 99,400	\$ 92,900
Source of Appropriation:		
General Fund	\$ 99,400	\$ 92,900
(6) Judiciary-Board of Bar Examiners	\$ 47,100	\$ 47,300
Source of Appropriation:		
Agency Receipts	\$ 47,100	\$ 47,300
Any expenditures in excess of the amounts in (1), (2), (3), and (5) including costs of any additional courts which may be established through amendment to the state constitution shall be deemed necessary governmental expenses.		
B. Department of Justice	\$ 1,978,500	\$ 2,020,300
Source of Appropriation:		
General Fund	\$ 1,947,700	\$ 1,987,800
Agency Receipts	\$ 30,800	\$ 32,500
TOTAL	\$ 1,978,500	\$ 2,020,300

	1974-75	1975-76
TOTAL-ADJUDICATION OF DEFENDANTS	\$ 8,403,200	\$ 6,962,100
Source of Appropriation:		
General Fund	\$ 6,887,000	\$ 6,854,600
Federal Revenue Sharing Fund	\$ 1,411,800	
Agency Receipts	\$ 104,400	\$ 107,500
TOTAL	\$ 8,403,200	\$ 6,962,100

	1973-74	1974-75	1975-76
66. Control and Reduction of Crime			
A. Department of Justice	\$ 131,400	\$ 33,536,900	\$ 37,903,400
Source of Appropriation:			
General Fund	\$ 131,400	\$ 20,758,800	\$ 22,923,400
Federal Funds		\$ 8,382,000	\$ 10,477,500
Agency Receipts		\$ 4,396,100	\$ 4,502,500
TOTAL	\$ 131,400	\$ 33,536,900	\$ 37,903,400

	1973-74	1974-75	1975-76
67. Maintenance of Public Order			
A. Department of Justice	\$ 236,700	\$ 5,275,200	\$ 6,963,300
Source of Appropriation:			
General Fund	\$ 236,700	\$ 5,223,300	\$ 6,921,400
Agency Receipts		\$ 41,900	\$ 41,900
TOTAL	\$ 236,700	\$ 5,275,200	\$ 6,963,300

	1973-74	1974-75	1975-76
68. Traffic Safety and Supervision			
A. Department of Justice	\$ 495,000	\$ 9,666,700	\$ 12,323,200
Source of Appropriation:			
General Fund	\$ 495,000	\$ 9,580,400	\$ 12,236,900
Agency Receipts		\$ 86,300	\$ 86,300
TOTAL	\$ 495,000	\$ 9,666,700	\$ 12,323,200

	1973-74	1974-75	1975-76
69. General Administration and Support			
A. Department of Justice	\$ 36,900	\$ 4,929,600	\$ 5,518,000
Source of Appropriation:			
General Fund	\$ 36,900	\$ 3,083,400	\$ 3,435,700
Federal Funds		\$ 1,166,100	\$ 1,396,200
Agency Receipts		\$ 680,100	\$ 686,100
TOTAL	\$ 36,900	\$ 4,929,600	\$ 5,518,000

Nothing in the appropriations for the Department of Justice shall preclude reallocation of funds, within the total expenditure level established, within the Department of Justice among various programs to fully accept any Crime Commission or Federal grants; except that the total general fund commitment to all major programs areas administered in the Department of Justice shall not exceed \$40,603,600 in fiscal year 1974-75 and \$47,505,200 in fiscal year 1975-76.

VII NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1974-75	1975-76
70. Department for Natural Resources and Environmental Protection		
A. Land Resources	\$ 7,302,800	\$ 6,418,300
Source of Appropriation:		
General Fund	\$ 4,809,700	\$ 4,923,700
Agency Receipts	\$ 417,800	\$ 419,300
Federal Funds	\$ 1,075,300	\$ 1,075,300
Federal Revenue Sharing Fund	\$ 1,000,000	
TOTAL	\$ 7,302,800	\$ 6,418,300

Not less than \$60,000 of the appropriation for each fiscal year in 70 A shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of the amount available in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor. The appropriation in 70 A for fiscal year 1974-75 includes \$1,000,000 for the reclamation fund.

B. Environmental Quality	\$ 4,930,000	\$ 4,101,200
Source of Appropriation:		
General Fund	\$ 3,110,100	\$ 3,281,300
Federal Funds	\$ 819,900	\$ 819,900
Federal Revenue Sharing Fund	\$ 1,000,000	
TOTAL	\$ 4,930,000	\$ 4,101,200

The appropriation in 70 B for fiscal year 1974-75 includes \$1,000,000 for the purpose of repairing and maintaining state owned dams.

C. General Administration and Support	\$ 1,008,800	\$ 1,068,500
Source of Appropriation:		
General Fund	\$ 1,008,800	\$ 1,068,500

PART TWO

I. TRANSPORTATION FUND GROUP

There is established for the purpose of paying all costs of operation and maintenance of the Department of Transportation and for carrying on its activities and functions, a Transportation Fund Group, which shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, general funds appropriated, or any other source pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated surplus, together with any balance as of June 30, 1974, and June 30, 1975, shall constitute the Transportation Fund Group for the fiscal years 1974-75 and 1975-76 respectively.

Funds in the Transportation Fund Group are appropriated for use by the Department in its activities, function, and duties performed by it as prescribed by law, provided, however, that an annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration by June 1, 1974, for fiscal year 1974-75 and by June 1, 1975, for fiscal year 1975-76.

	1974-75	1975-76
1. Air	\$ 13,285,400	\$ 6,954,400
Source of Appropriation:		
General Fund	\$ 513,600	\$ 1,509,400

Agency Receipts	\$ 178,400	\$ 145,000
Federal Funds	\$ 10,111,300	\$ 4,084,200
Local Funds	\$ 2,482,100	\$ 1,215,800
TOTAL	\$ 13,285,400	\$ 6,954,400

	1974-75	1975-76
2. General Administration and Support	\$ 23,673,600	\$ 26,290,200
Source of Appropriation:		
Road Fund	\$ 22,152,600	\$ 24,855,600
General Fund	\$ 243,400	\$ 251,000
Kentucky Turnpike Authority	\$ 1,207,600	\$ 1,183,600
Federal Funds	\$ 70,000	
TOTAL	\$ 23,673,600	\$ 26,290,200

	1974-75	1975-76
3. Highways	\$373,284,100	\$341,414,900
Source of Appropriation:		
Road Fund	\$220,048,500	\$237,664,300
General Fund	\$ 3,133,500	\$ 3,359,000
Agency Receipts	\$ 1,162,700	\$ 1,111,700
Federal Funds	\$ 95,939,500	\$ 91,102,300
Kentucky Turnpike Authority	\$ 4,781,700	\$ 5,000,000
Turnpike Authority	\$ 21,718,200	\$ 3,177,600
General Fund Non-Recurring	\$ 26,500,000	
TOTAL	\$373,284,100	\$341,414,900
To be distributed as follows:		
A. Bureau of Highways	\$314,898,900	\$279,819,200
Source of Appropriation:		
Road Fund	\$165,959,500	\$180,539,300
Federal Funds	\$ 95,939,500	\$ 91,102,300
Kentucky Turnpike Authority	\$ 4,781,700	\$ 5,000,000
Turnpike Authority	\$ 21,718,200	\$ 3,177,600
General Fund Non-Recurring	\$ 26,500,000	
TOTAL	\$314,898,900	\$279,819,200
B. Rural Highways		

1. County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges, the sum of \$13,000,000 for fiscal year 1974-75 and \$13,000,000 for fiscal year 1975-76, shall be expended in accordance with the provisions of KRS 179.410 through 179.430.

2. Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. This appropriation is in addition to the amount appropriated under Section 3, Subsection B, Paragraph 1, of Part Two of this Appropriation Act. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

C. Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS Chapter 177. These funds shall be distributed in accordance with the formula prescribed by the applicable provisions of KRS Chapter 177. This appropriation is in addition to the amount appropriated under Section 3A.

	1974-75	1975-76
D. Bureau of Vehicle		

Regulation (Except the Division of Water Enforcement)	\$ 4,610,200	\$ 4,795,700
Source of Appropriation:		
General Fund	\$ 3,133,500	\$ 3,359,000
Agency Receipts	\$ 1,162,700	\$ 1,111,700
Road Fund	\$ 314,000	\$ 325,000
TOTAL	\$ 4,610,200	\$ 4,795,700

	1974-75	1975-76
4. Mass Transit	\$ 578,600	\$ 603,400
Source of Appropriation:		
General Fund	\$ 178,600	\$ 203,400
Federal Funds	\$ 400,000	\$ 400,000
TOTAL	\$ 578,600	\$ 603,400

	1974-75	1975-76
5. Railroad Commission	\$ 47,100	\$ 47,600
Source of Appropriation:		
General Fund	\$ 47,100	\$ 47,600

	1974-75	1975-76
6. Water	\$ 522,000	\$ 524,600
Source of Appropriation:		
General Fund	\$ 439,200	\$ 479,600
Agency Receipts	\$ 18,000	
Federal Funds	\$ 64,800	\$ 45,000
TOTAL	\$ 522,000	\$ 524,600

PART THREE
CAPITAL CONSTRUCTION
1974-75 1975-76

Executive Department for Finance and Administration		
A. Capital Construction Fund	\$211,782,000	\$ 52,751,000
Source of Approp- riation:		
General Fund	\$ 35,173,700	\$ 5,444,200
Federal Funds	\$ 3,321,000	\$ 2,670,000
Federal Revenue Sharing Fund	\$ 94,907,300	\$ 42,916,800
Revenue Bonds	\$ 77,380,000	\$ 900,000
Local Funds		\$ 820,000
Private Donor	\$ 1,000,000	
TOTAL	\$211,782,000	\$ 52,751,000

Funds are appropriated for construction projects enumerated in the Executive Budget 1974-76, including but not limited to reclamation projects, major items of equipment necessary to execute statutory responsibilities, industrial development projects (including pilot plants related to energy research), construction, renovation, property acquisition, and administrative costs related to design, construction and supervision of such projects.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed \$2,000,000, and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the Commissioner of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

All income from real estate rentals, sales, interest on funds in the capital construction fund including balances at the end of previous fiscal year are appropriated and shall be administered as provided in Chapter 56 of the Kentucky Revised Statutes.

The above General Fund appropriation includes \$1,000,000 during fiscal year 1974-75 to establish an Emergency School Loan Fund to be used by the State Board of Education to make temporary, no interest loans to local school districts to aid in the reconstruction and repair of school facilities damaged by disasters.

PART FOUR RESTRICTED FUNDS

All Restricted Funds received by various officers, departments, boards, commissions, institutions, divisions, and other agencies of state government and all funds balances brought forward from the previous fiscal year are appropriated. Such funds shall be spent as stipulated by the applicable trust or statute. These funds shall be deposited in the State Treasury, unless otherwise provided by KRS 41.290, and maintained in a Restricted Fund group with subsidiary records for specific accounts. Conditions established by the donor or applicable statute shall govern expenditures, except that restricted funds may not be transferred to the Operating Fund Group of accounts as an appropriation for general operations.

PART FIVE BONDED INDEBTEDNESS FUNDS

There is appropriated for the retirement of bonds issued by or authorized by the Commonwealth or its agencies, boards and departments or commissions, the amount necessary to meet the annual debt service.

Revenues pledged as income shall be deposited to the respective revenue accounts from which as first pledge the necessary principal, interest and reserves shall be paid. Any balance after this payment shall be transferred to the operating fund of the applicable agency, office, board, commission or department to be used for general operational expenses authorized under conditions established by the Trust Indenture.

PART SIX GENERAL PROVISIONS

1. The appropriations listed herein to the various officers, departments, boards, commissions, institutions, subdivisions, and agencies of State Government from Agency Funds and/or Agency Receipts for the fiscal year ending June 30, 1975, and for the fiscal year ending June 30, 1976, consist of all of the fees (which include fees for board and room, athletics and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, and other miscellaneous receipts produced or received by any agency of the State Government, except as otherwise specifically provided, for the use and benefit of the agencies of the State Government for the purposes for which each fund is authorized. All funds received are appropriated. Such funds shall be deposited in the State Treasury and credited to the appropriate fund shown as provided in KRS Chapters 12, 42, 45.

In the event the sum of receipts received and credited to any Revolving or Trust and Agency Fund Account during fiscal year 1974-75 or fiscal year 1975-76 (plus the balance forwarded to the credit of any such account from the previous fiscal year) exceeds the appropriation shown, the Executive Department for Finance and Administration may approve, during the year in which the excess occurs, the use of such excess to replace other funds anticipated but not received, to meet increased program costs, or to reduce the General Fund allotments. Excess funds may not be used to increase the expenditure base of recurring General Funds for the next biennium.

In the event receipts received and credited to any Revolving or Trust and Agency Fund plus any balance forwarded to the credit of any such account from the previous fiscal year are less than the appropriation, the

expenditure level shall be reduced by the Executive Department for Finance and Administration to the amount of such funds available.

On or before June 1, 1974 for fiscal year 1974-75 and on or before June 1, 1975, for fiscal year 1975-76, each agency shall submit to the Executive Department for Finance and Administration schedules showing estimated receipts by source and by program, which are anticipated to be received each quarter of the fiscal year.

2. Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1974, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Commissioner of the Executive Department for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1974-76 and supporting work papers, as considered by the General Assembly, and the decision of the Commissioner of the Executive Department for Finance and Administration shall be final and conclusive.

3. The Commissioner of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Departments of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs. Any reimbursements received from Federal Funds under this system or formula shall accrue to the General Expenditure Fund and any system or formula for the proration shall be developed pursuant to the provisions of KRS 18.330.

4. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

5. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 45, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

6. In the event prior year service credit for military service in Kentucky Retirement Systems is authorized by the General Assembly, up to \$500,000 in fiscal year 1974-75 and \$500,000 in fiscal year 1975-76 is appropriated for employer contributions. These funds shall be allotted from the "contingency" funds appropriated to the Executive Department for Finance and Administration for non-recurring expenditures in the Capital Construction funds.

7. In the event General Fund Surplus at the close of books for fiscal year 1973-74 plus the revised estimates for General Fund Revenue for fiscal year 1974-75 exceed \$913,524,045, any excess up to a maximum of \$2,847,050, may be used to reduce in-state tuition at the University of Louisville an additional \$75 each year of the biennium. The \$2,847,050 (\$935,550 for 1974-75 and \$1,911,500 for 1975-76) shall be appropriated to the Council on Public Higher Education for allotment to the University of Louisville upon reduction of such tuition. The \$1,911,500 shall not lapse at the end of fiscal year 1974-75.

8. Nothing in this Act shall prevent the Department of Education from converting from the classroom unit basis of calculating the Foundation Program to the weighted pupil cost unit approach in 1975-76 except that no school district shall receive less funds under the pupil cost unit approach than received under the classroom unit calculation. It is the intent of the General Assembly to convert to the pupil cost unit approach basis of calculation as soon as the necessary data, weighted factors, and approved procedures are available. The Department of Education shall submit by January 1, 1975, to the Governor and to the Legislative Research Commission, a plan for converting to the pupil cost unit approach.

Notwithstanding the provision of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of fiscal years 1973-74 and 1974-75 shall lapse to the General Expenditure Fund; provided, however, that if a change in the Foundation Program is approved by the General Assembly and if the Department of Education submits an acceptable plan, by January 1, 1975, to the Governor and the Legislative Research Commission for conversion to the Weighted pupil cost unit approach of calculating Foundation Program aid, any balance, not to exceed \$5,500,000, remaining in the Foundation Program fund at the end of the 1974-75 fiscal year may, with the approval of the Commissioner of the Executive Department for Finance and Administration and the Governor, continue into fiscal year 1975-76 to make such conversion and to ensure that no public local school district shall receive less funds as a result of converting to the pupil cost unit approach of calculating Foundation Program allotments than would have been received under the classroom unit method of calculation now in effect.

9. At such time as the Congress of the United States may enact into law a provision increasing or extending coverage of Federal minimum wage requirements now in effect, the Commissioner of the Executive

Department for Finance and Administration with the approval of the Governor, shall be authorized to pay, out of any available General Fund Surplus, to those state employees affected by such increase, an amount necessary to raise their respective compensation to a level consistent with the requirements of any such newly enacted provision increasing minimum wage requirements.

10. Funds necessary to continue existing revolving accounts are appropriated for each fiscal year of the 1974-76 biennium. Any surplus funds in any such account at the closing of books for the fiscal year shall lapse. If any revolving account is abolished, or funds therein are lapsed during the 1974-76 biennium, such funds shall lapse to the General Expenditure Fund if such General Funds were in part or in whole used to establish or sustain the revolving fund. If no general funds were involved, funds shall be returned to the original source.

11. Whereas, inasmuch as the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, department, board, commission, institution, agency or other activity or subdivision of state government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing to the General Expenditure Fund and to the State Road Fund and accruing from various fees or from Federal funds from which appropriations are made can only be anticipated as being produced through existing laws and those that may hereafter be enacted, and recognizing the complex nature of the economy and the impact the energy crisis may have upon it, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any Fund, as defined in KRS Chapter 45, for the same fiscal year.

Recognizing the uncertainties in the economy and the problems in forecasting revenue together with the unreliability of Federal funds under the present national administration policies and recognizing that the needs of each officer, department, board, agency, commission, institution, subdivision or activity of state government, together with the total financial resources accruing to the General Expenditure Fund and the State Road Fund can not be fully determined at this time, it is the intention and purpose of this General Assembly that the Commissioner of the Executive Department for Finance and Administration, with the approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, department, board, commission, institution, subdivision, agency or other activity of state government and to ascertain the total financial resources anticipated to be accrued to the General Expenditure Fund and the State Road Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Commissioner of the Executive Department for Finance and Administration, in the manner set forth as provided by general law, is authorized, empowered, and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to needs, without discrimination, the appropriations herein made from the General Expenditure Fund and State Road Fund to each officer, department, board, commission, institution, subdivision, agency or other activity in state government, provided, however, that the power invested shall not permit any reduction of the appropriations of any officer, department, board, commission, institution, subdivision, agency or other activity of state government that will actually impair the necessary constitutional functions of such agency or activity, the operations and functions of which are determined to be necessary constitutional function of state government.

In affecting such reductions the Commissioner of the Executive Department for Finance and Administration shall reduce appropriations contained in this Act in the following order: First, by eliminating or suspending all contingent or provisional appropriations contained herein; Second, by eliminating new capital projects; Third, by eliminating or delaying new programs; Fourth, by eliminating or delaying renovation projects; Fifth, by eliminating or delaying any expansion of the existing service levels; Sixth, by eliminating or delaying increases in current operating expenses and capital outlays; Seventh, by delaying or suspending cost increases mandated by Federal or state law; Eighth and finally, by reducing the existing service levels of state agencies, institutions and programs.

12. In the event General Expenditure Fund revenue estimate, plus surplus brought forward, for the 1974-75 fiscal year exceeds \$916,371,095, such excess is hereby appropriated to the General Contingency Fund which is hereby created, and may be allocated, upon order of the Governor, to state agencies for the following purposes:

- (1) Statutory cost increases not otherwise provided for in this Act;
- (2) Unusual reduction or loss of other funds anticipated in the 1974-76 budget, which loss would cause an undesirable reduction in state program service levels;
- (3) Extraordinary inflationary cost increases which would otherwise cause an undesirable reduction in service levels;
- (4) Unanticipated cost increases in renovation and construction projects provided for in this Act;
- (5) Contingent or provisional projects.

13. In the event General Expenditure Fund revenue estimate, plus surplus brought forward, for the 1975-76 fiscal year exceeds \$933,485,645, such excess is hereby appropriated to the General Contingency Fund and may be allocated, upon order of the Governor, to state agencies for the following purposes:

- (1) Statutory cost increases not otherwise provided for in this Act;
 - (2) Unusual reduction or loss of other funds anticipated in the 1974-76 budget which loss would cause an undesirable reduction in state program service levels;
 - (3) Extraordinary inflationary cost increases which would otherwise cause an undesirable reduction in service levels;
 - (4) Unanticipated cost increases in renovation and construction projects provided for in this Act;
 - (5) Contingent or provisional projects.
14. Any adjustments, either increasing or decreasing the appropriation contained in this Act, shall be reported in writing and on a timely basis by the Commissioner of the Executive Department for Finance and Administration to the Joint Interim Committee on Appropriations and Revenue. The Governor and Commissioner shall consult with the committee in regard to such adjustments.
15. No state agency, department, office or program shall incur any obligation against the general fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the Governor's budget proposal and is supported by the work papers and other records pertaining thereto.
16. Any appropriation made herein by the General Expenditure Fund in anticipation of loss or reduction of Federal grants shall lapse to the General Expenditure Fund to the extent such Federal funds otherwise become available.

HB 294, AN ACT relating to registration fees of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be \$11.50.

(2) The annual registration fee for each motorcycle shall be \$5.00, and for each sidecar attachment, \$3.00.

(3) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle and any Towed Unit	Registration Fee
0- 6,000	\$ 11.50
6,001-10,000	24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-62,000	588.00
62,001-73,280	750.00

(4) (a) Any farmer owning a truck having a gross weight of 26,000 pounds or less may have it registered as a farmer's truck and obtain a license for \$11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 26,000 pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 26,000 pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay 40% of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm, and the vehicle registered

will not be operated more than fifty air miles from his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six inches high and of a conspicuous color and the truck or bus will be used during the next twelve months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus", with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for \$11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tippie, where such railhead or tippie is located at a point not more than fifty (50) air miles from the point at which such coal is mined *or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area*, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section. *"Primary forest products", as used in this section, shall mean those items produced from timber resources up to the point they become usable for general consumption, and shall include, but not be limited to, saw logs, veneer logs, piling, poles, cooperage timber, twining timber (for handle blanks), pulp wood, charcoal wood, mines timber and wood chips.*

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the Department of Revenue copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for \$1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056 (2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be \$20.00 and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The Department of Motor Transportation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in KRS 186.050.

(b) Any owner of a commercial vehicle who is required to register his motor vehicle under this section shall first register such vehicle with the county clerk pursuant to KRS 186.020 for a fee of \$1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. The department shall promulgate regulations in accordance with this section.

The Committee Amendment to **HB 294** is as follows:

Amend printed copy of House Bill 294, page 6, lines 22 through 24,

by striking lines 22 through 24 in their entirety and inserting in lieu thereof, the following: *logs, piling and poles from which the bark has not been removed, cooperage bolts, pulp wood and wood chips.*

The Committee on Banking and Insurance reported **SB 178** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 178, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, *or advertising to be used in conjunction with any of the foregoing* shall be delivered, or issued for delivery *or, in the case of advertising, for publication* in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, or to policies, riders, indorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than thirty (30) days in advance of any such delivery. At the expiration of such thirty (30) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner

may extend by not more than an additional thirty-day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial thirty-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in subtitle 2.

The Committee on Business Organizations and Professions reported **HB 341**, **HB 480** with Committee Amendment attached thereto, **HB 483**, **HB 648**, and **SB 100** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 341, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.690 is amended to read as follows:

The corporate existence of each domestic corporation which, upon July 1, 1974 [1972], is listed as an existing corporation on the current corporate index maintained in the office of the Secretary of State and is then engaged in the usual course of its business shall be, and it hereby is, validated retroactively to the date of its incorporation and continued for the period specified in its articles of incorporation and the amendments thereto, or for a period of one year from July 1, 1974 [1972], whichever is greater, unless thereafter it is voluntarily dissolved or liquidated pursuant to law, or its separate existence ceases pursuant to KRS 271A.380, or it has its corporate powers revoked pursuant to KRS 271A.470, or its charter is repealed or vacated pursuant to KRS Chapter 415.

HB 480, AN ACT relating to electronic service technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 334 is established and a new section thereof is created to read as follows:

(1) This Act may be cited as the "Electronic Technician Licensing Act."

(2) It is hereby declared to be the public policy of the Commonwealth of Kentucky that the public should be protected from financial losses and other hazards resulting from irresponsible service methods, unethical practices, inferior installation, maintenance and repair of television, radio, phonograph, magnetic recording, and play back audio equipment, including antenna receiving systems.

Section 2. A new section of KRS Chapter 334 is created to read as follows:

As used in this Act the following terms are hereby defined as follows:

(1) "Person" means any individual, firm, association, partnership, joint stock association, trust or corporation;

(2) "Board" means the Board of Electronic Technician Service Examiners hereinafter created;

(3) "Electronic service technician" means any individual who has been duly licensed by the board pursuant to the provisions of this Act;

(4) "Apprentice electronic service technician" means an individual who has been duly registered by the board and who is learning the fundamentals of servicing electronic equipment under the direct and personal

supervision of a duly licensed electronic service technician;

(5) "Receiving equipment" means television and radio receiving apparatus intended to reproduce television and radio broadcasts;

(6) "Audio equipment" of the home entertainment type, means apparatus to reproduce sound or picture by means of wire or tape or recording disc;

(7) "Antenna receiving systems" means apparatus used for intercepting television and radio broadcast signals and apparatus, exclusive of wiring, used to conduct this signal to receiving equipment; and

(8) "Service" means the repair, maintenance, installation or modification of receiving equipment.

Section 3. A new section of KRS Chapter 334 is created to read as follows:

(1) It shall be unlawful:

(a) For any person, for compensation or hire, to service receiving equipment or antenna receiving systems without a license issued hereunder;

(b) For any person, for compensation or hire, to cause or permit others, to be employed or engaged in the servicing of receiving equipment or antenna receiving systems unless the individual so employed or engaged is duly licensed hereunder;

(c) For any person to offer, directly or indirectly, by advertisement, telephone, or by any other manner, the services of a person not duly licensed hereunder to service receiving equipment or antenna receiving systems.

(2) Exempted from the provisions of this Act are:

(a) Government agencies or public utility companies;

(b) Vocational and accredited education programs;

(c) Manufacturers of receiving equipment and antenna receiving systems, and manufacturers of related products such as service manuals, technical literature, component parts or test instruments who render service as a necessary operation in the manufacture of their products.

(d) Homebuilders who, upon contract or agreement and as an integral part of their contract, install receiving systems equipment in new home construction.

Section 4. A new section of KRS Chapter 334 is created to read as follows:

(1) There is hereby created a Board of Electronics Service Examiners, consisting of seven members, to be appointed by the Governor within sixty days after this Act becomes effective, which shall be known as the "Kentucky State Board of Electronics Service Examiners." Five members of the board shall be qualified for a license under the provisions of Section 13 of this Act and, after June 30, 1972, shall be duly licensed hereunder and two members of the Board shall represent the consuming public. The members of the first board shall be appointed as follows: Two for the term of one year; two for the term of two years; two for the term of three years; one for the term of four years; and thereafter, two members of said board shall be appointed each year, except that every fourth year following the effective date of this Act, one member of said board shall be appointed. A member of the board shall hold such office until his successor is appointed and qualified but shall not otherwise be eligible for successive reappointment.

(2) In the event of a vacancy on the board, the Governor shall within thirty days thereafter appoint a successor for the balance of the unexpired term created by such vacancy.

(3) The board shall be composed of not more than four members of one political party. No more than two members shall be residents of the same county.

Section 5. A new section of KRS Chapter 334 is created to read as follows:

(1) The board shall elect a president from its members and shall appoint a secretary who may or may not be a member of the board, and such president and secretary shall hold their respective offices for one year. The secretary contract shall be reviewed by the board.

(2) Five members shall constitute a quorum. The board shall be furnished with suitable quarters for the conduct of its business and shall adopt and use a seal for the authentication of its orders and records. The secretary of the board shall keep a record of its proceedings and a record of persons licensed showing the name, place of business and residence of each licensee, and the date and number of his license, and a record of all licenses or certificates issued, refused, renewed, suspended or revoked.

(3) The board shall have the authority to make all such reasonable rules and regulations as it may deem necessary or desirable to carry out the provisions of this Act and which are not inconsistent therewith.

(4) The board shall meet at least quarterly, and shall annually, on or before the first day of July of each year, make a report to the Governor of its official acts during the preceding year, and of its receipts and disbursements, and such recommendations as it may deem expedient.

Section 6. A new section of KRS Chapter 334 is created to read as follows:

(1) Before entering upon the discharge of the duties of his office, the secretary of the board shall give a bond to the state to be approved by the Governor and filed with the Secretary of State in the penal sum of \$10,000 conditional upon the faithful performance of the duties of his office.

(2) The secretary shall give a proper receipt for all monies received by the board under this Act and shall at the end of each month report to the Department of Finance the total amount received by said board

under the provisions of this Act, from all sources, and shall at the same time deposit the entire amount of such receipts with the State Treasurer, to be credited to an account of the general fund of the state to be known as the "Electronics Service Examiners Fund."

(3) At the close of each fiscal year any sum of money in said fund after payment of expenses necessary to carry out the provisions of this Act, shall be transferred to and become a part of the general fund of the Commonwealth of Kentucky.

(4) The board by its president and secretary, shall from time to time certify to the Department of Finance the necessary expenses incurred by said board, including the salaries, per diem and expense allowances hereinafter provided.

Section 7. A new section of KRS Chapter 334 is created to read as follows:

(1) Each member of the board shall receive \$40.00 for each day actually employed in the discharge of his official duties, his necessary expenses incurred therein, together with \$.10 per mile while traveling to and from any regular or called meeting of the board and the cost of meals and hotel accommodations when absent from the county of his residence on the business of the board in an amount not exceeding \$25 a day.

(2) The board shall have authority, subject to the approval of the Department of Finance, to fix the salary of its secretary and to employ such clerks, assistants, and investigators as it may deem necessary for the proper execution of its functions and to fix their salaries and expenses.

Section 8. A new section of KRS Chapter 334 is created to read as follows:

The board shall conduct examination of applicants for licenses for electronic service technician at least once each three months at a time and place as determined by the board, and shall have authority to investigate all facts pertinent to any application for a license, registration certificate or renewals thereof, required by this Act.

Section 9. A new section of KRS Chapter 334 is created to read as follows:

The examinations to be given by the board shall be practical in character and shall relate to those matters which fairly test the capacity of the applicant for the license for which he is being examined. The examination shall cover the theory and practice of service, knowledge and the provisions of this Act, interpretations of charts, technical data, and the knowledge of proper safety measures relating to the physical safety of the general public who may use his service. The examination may be written and/or oral. Upon obtaining a grade previously established by the board as a passing or satisfactory grade or mark, such applicant for a license as an electronic service technician shall be issued such license by the board if the applicant possesses and meets the other qualifications required by this Act.

Section 10. A new section of KRS Chapter 334 is created to read as follows:

The board shall issue a license certificate and badge of a design approved by the board to each applicant who satisfactorily meets the requirements for such license. A person so licensed shall display the license certificate in plain view in his place of business or otherwise in the place where his service is performed, and a person so licensed shall wear in plain view the badge issued by the board, showing his license number, when performing service outside his normal place of business or employ.

Section 11. A new section of KRS Chapter 334 is created to read as follows:

(1) Application for any license or certificate to be issued hereunder shall be made under oath on forms furnished for such purpose by the board and shall contain in addition all other reasonable information as shall be requested by the board, together with the following:

- (a) Name, age and address of the applicant; and
- (b) Statement of training and experience of the applicant.

Section 12. A new section of KRS Chapter 334 is created to read as follows:

(1) An applicant for an electronic service technician license shall be at least eighteen years of age, of good moral character and temperate habits and who:

(a) Has been for an aggregate period of not less than two years an apprentice electronic service technician under the direct and personal supervision of an electronic service technician; or

(b) Shall have an aggregate period of not less than four years' experience in servicing equipment if such experience in servicing equipment has been obtained outside the Commonwealth of Kentucky; or

(c) Exhibits a diploma or certificate showing satisfactory completion of a course in servicing electronic equipment conducted in a school under the jurisdiction of the Department of Education or approved by the federal government for vocational training of honorably discharged veterans of the armed forces of the United States of America; or

(d) Has successfully completed a course in servicing receiving equipment from a correspondence school or trade school, approved by the board, and has had experience as an apprentice electronic service technician for not less than an aggregate period of one year. However if this experience has been obtained outside the Commonwealth of Kentucky, such experience must be for an aggregate period of not less than two years.

(2) An applicant for a registration certificate as an apprentice electronic service technician must be at least sixteen years of age, of good moral character and of temperate habits and shall have the application signed by the electronic service technician under whose direct and personal supervision he will be learning to

render service.

Section 13. A new section of KRS Chapter 334 is created to read as follows:

Any resident of this state who shall, within the period immediately prior to the passage of this Act, have had the equivalent of twelve months of experience servicing electronics equipment or antenna receiving systems, at one or more established places of business in this state shall be granted a license, for the respective type or types of service for which such experience qualifies him, without examination, upon making application to the board before June 30, 1975, and paying the required license fee for such license if he is otherwise qualified for such license under the provisions of this Act.

Section 14. A new section of KRS Chapter 334 is created to read as follows:

The electronic service technician who signs an application for registration of an apprentice shall be responsible for the acts of apprentices who are under their direct and personal supervision in rendering service. If such responsibility is terminated for any reason, such technician must certify this fact to the board within thirty days after such termination.

Section 15. A new section of KRS Chapter 334 is created to read as follows:

(1) Licenses issued hereunder shall not be transferable. The board may refuse to issue, and is empowered to revoke or suspend, any license if the applicant thereof, or holder thereof, shall have:

(a) Been convicted of a felony by a certified copy of the record of the court of conviction and who has not been pardoned or paroled or otherwise restored; or

(b) Engaged in any unethical practice or conduct, as reasonably defined by the board, which shall include and mean any conduct of a character likely to mislead, deceive or defraud the public or board; or

(c) Advertised in any manner by which untruthful or misleading statements are made; or

(d) Performed any service in pursuance of such untruthful or misleading advertising; or

(e) Violated any of the provisions of this Act or any rule or regulation of the board promulgated under this Act; or

(f) Failed to display all licenses and badges as required hereunder conspicuously in the place of business wherein service is being performed; or

(g) Performed any service in an unworkmanlike or unskilled manner, showing evidence of negligence or carelessness.

Section 16. A new section of KRS Chapter 334 is created to read as follows:

(1) The board shall annually charge and collect a fee of \$10 for each license, and shall annually charge and collect a fee to be determined by the board, not to exceed \$5 from each applicant for an apprentice registration certificate or renewal thereof.

(2) The board may charge a fee of not more than \$25 for admission to the examinations required herein, and upon failure of any applicant to satisfactorily pass the examination for license he shall be privileged to take a subsequent examination at any other examination period upon the payment of an additional examination fee, if one is fixed by the board, in an amount not more than \$10.

(3) The board shall issue duplicate licenses herein required upon the filing of a statement by the licensee showing the need of such license, verified by the oath of the applicant, and a payment of a fee of \$2 for the issuance of the same. Each duplicate license shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the license originally issued.

(4) All licenses herein required shall expire as of June 30 of each calendar year.

Section 17. A new section of KRS Chapter 334 is created to read as follows:

Any person registered by authorities other than the board may, in the discretion of the board, be issued a permit under the terms of reciprocity agreements. The board may arrange for reciprocity in registration with the authorities of other states and territories having requirements substantially equal to those established in this Act.

Section 18. A new section of KRS Chapter 334 is created to read as follows:

A person engaged in the business regulated by this Act on or after July 1, 1974, and who shall apply for the appropriate license or licenses hereunder prior to June 30, 1975, shall not be in violation of this Act unless and until his application for such license or licenses shall be denied.

Section 19. A new section of KRS Chapter 334 is created to read as follows:

In no case shall the board refuse to issue a license or to suspend or revoke one, on any of the causes set forth in Section 15 of this Act, or on the ground that the applicant or licensee is not a person of good moral character and temperate habits, without first having given such applicant or licensee an opportunity to be heard in his own defense and reasonable time to prepare therefor by mailing to such applicant or licensee, by registered or certified mail to the address shown in his application or license, a copy in writing of the grounds on which such application or license may be denied, suspended or revoked.

Section 20. A new section of KRS Chapter 334 is created to read as follows:

The board shall prescribe, by regulation, rules for the conduct of hearings held under Section 19 of this Act. The rules shall provide for a fair hearing and shall require the board to make a record of proceedings before it.

Section 21. A new section of KRS Chapter 334 is created to read as follows:

Within thirty days after final action by the board following a hearing, an aggrieved party may petition Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the board's order except for errors of law, or upon a finding that the board's action was arbitrary or capricious.

Section 22. A new section of KRS Chapter 334 is created to read as follows:

In addition to any other penalties prescribed by or authorized herein, for action or inaction declared illegal or unlawful, injunction of a mandatory or restraining nature shall also be granted by any circuit court of the county, wherein said illegality or unlawfulness has occurred, upon application of the Attorney General of the Commonwealth of Kentucky. The Attorney General shall apply for an injunction only after conference with the board. The Attorney General shall furnish legal counsel. The application shall be tried in the same manner and under the same rules of procedure as other civil actions are tried. The action shall be brought in the name of the Commonwealth of Kentucky on relation of the Attorney General of the Commonwealth of Kentucky.

Section 23. A new section of KRS Chapter 334 is created to read as follows:

Any person who violates any of the provisions of this Act shall be fined in a sum of not less than \$100 nor more than \$500. Each day of violation hereunder shall constitute a separate offense.

The Committee Amendment to **HB 480** is as follows:

Amend printed copy of House Bill 480, page 9, line 18,

after the word "age," delete the following: "of good moral character and temperate habits"

on page 10, beginning on line 19, after the word "age," delete the following: "of good moral character and of temperate habits"

on page 11, line 26, delete the following: "(a) Been convicted of a felony by a certified copy"

on page 12, by deleting lines 1 through 6

on page 12, line 7, delete "(c)" and insert "(a)"

on page 12, line 9, delete "(d)" and insert "(b)"

on page 12, line 11, delete "(e)" and insert "(c)"

on page 12, line 14, delete "(f)" and insert "(d)"

on page 12, line 17, delete "(g)" and insert "(e)"

HB 483, AN ACT relating to shorthand reporters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 325 is created to read as follows:

As used in this Act:

(1) "Board" means the Kentucky State Board of Shorthand Reporters.

(2) "Practice of shorthand reporting" means the making of a verbatim record of any court proceeding, deposition, hearing or other matter where such verbatim record is required or requested by any court, grand jury, referee, counsel or party therein to be made by means of a written system of either manual shorthand procedures or by means of a mechanical typing device using paper tapes.

(3) "Certified Shorthand Reporter" means an individual who has been certified under Sections 5 and 6 of this Act to engage in the practice of shorthand reporting.

Section 2. A new section of KRS Chapter 325 is created to read as follows:

(1) There is hereby created a State Board of Shorthand Reporters consisting of seven members appointed by the Governor. The Board shall consist of one appellate judge, one circuit judge, two practicing trial lawyers, and three shorthand reporters. Initial appointments shall be for a term of four years for the appellate judge, one member of the bar, and two shorthand reporters, and for a term of two years for the

circuit judge, one member of the bar, and one shorthand reporter. Thereafter, as board members' terms expire their successors would be appointed for four-year terms. Said board members shall have the right to succeed themselves.

(2) In the event of resignation or vacancy by reason of death or any other reason, the Governor shall, as soon as practicable, appoint a successor from like category to fill the unexpired term.

(3) The Board shall elect officers, and a majority of the members of the State Board of Shorthand Reporters shall constitute a quorum for the transaction of business.

(4) Each member of the Board to be appointed under the provisions of this Act shall be paid his actual traveling expenses when such expenses are incurred in pursuance of the duties imposed upon him by this Act, and no other or further compensation or remuneration shall be paid.

Section 3. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board shall:

(a) Administer this Act.

(b) Determine qualifications of applicants.

(c) Establish requirements for certification examinations which shall consist of an examination in shorthand proficiency and may also include spelling, grammar, legal and medical terminology, court procedures, and such other subjects as the board may determine.

(d) Grant Certified Shorthand Reporter certificates, and provisional certificates.

(e) Issue an annual license to Certified Shorthand Reporters for a fee not to exceed \$25.

(f) Establish rules and regulations for the conduct of Certified Shorthand Reporters.

(g) Hold hearings on the competence and conduct of Certified Shorthand Reporters, either on complaint, or its own motion, and to revoke or suspend certificates if warranted.

(h) Fix and from time to time review and amend as necessary a per diem fee to be charged in civil cases for taking stenographic notes to be paid to the official reporter, which shall be paid forthwith by the party in whose behalf the proceedings are reported, and shall be taxed as part of the costs of the action.

(i) Fix and from time to time review and amend as necessary the page rates for transcript, both original and copies, to be paid to the official reporter. The Board may promulgate regulations as to the form to be followed in the preparation of transcript.

(j) The Board shall keep an accurate record of all of its proceedings, a register of the names and addresses of persons certified to engage in the practice of shorthand reporting and submit annually to the Governor a report of its activities under this Act.

Section 4. A new section of KRS Chapter 325 is created to read as follows:

(1) No person may engage in or offer to engage in the practice of shorthand reporting in this state unless he is certified by the Board as provided in this Act.

(2) No person may use the term "certified shorthand reporter" or the initials "C.S.R." after his name or otherwise indicate that he is certified to engage in the practice of shorthand reporting in this state if he is not certified by the Board to engage in the practice of shorthand reporting under this Act.

(3) No person may engage in or offer to engage in the practice of shorthand reporting during the period of any suspension of his certification by the Board under Section 8 of this Act.

Section 5. A new section of KRS Chapter 325 is created to read as follows:

(1) Except as otherwise provided in Section 6 of this Act, the Board shall grant certification to such applicants as upon examination the Board determines to be qualified to engage in the practice of shorthand reporting.

(2) The Board may hold examinations for certification under this Section as often as it considers necessary and at such times and places as the Board may designate. The Board shall administer no less than one examination per year.

(3) Each applicant for certification shall submit an application to the Board in such form as the Board may require, accompanied by an original application fee not to exceed \$50 payable to the Kentucky State Treasurer. In no case shall an application fee be refunded to an applicant, but an applicant who is unsuccessful in an examination may be re-examined prior to the expiration of 12 months after the date of the initial examination without the payment of any additional fee.

(4) Each applicant for an examination under this section shall be a citizen of the United States, at least 18 years of age, of good moral character, a high school graduate or have an equivalent education background satisfactory to the Board and shall possess such other qualifications as the Board, by rule, may require.

(5) An applicant possessing the qualifications required under this Act who successfully passes an examination by the Board under this section shall be certified to engage in the practice of shorthand reporting and shall be entitled to use the designation of "Certified Shorthand Reporter" after his name.

(6) Those passing the examination and receiving certification under this section shall receive their initial annual license without payment of any additional fee. Thereafter the fee for renewal of the annual license shall not exceed \$25.

(7) The Board may authorize the payment of the expenses incurred in giving examinations and conducting disciplinary hearings from funds derived from examination and licensing fees under this Act, provided no other portion of the expenses of the Board, including the expenses of the members of the Board, shall be paid out of the State Treasury.

Section 6. A new section of KRS Chapter 325 is created to read as follows:

The Board shall certify, without examination, a person to engage in the practice of shorthand reporting, if such person has been continuously engaged in this state in the practice of shorthand reporting for 12 months next preceding the effective date of this Act and such person submits to the Board an application for certification with the accompanying annual license fee not to exceed \$25 payable to the Kentucky State Treasurer prior to the expiration of 90 days after the effective date of this Act.

Section 7. A new section of KRS Chapter 325 is created to read as follows:

Any shorthand reporter wishing to practice shorthand reporting in the State of Kentucky other than as an official reporter, shall apply to the Board for a provisional certificate until the next regularly scheduled certified shorthand reporter examination, provided that such application shall be accompanied by an affidavit from a Kentucky Certified Shorthand Reporter certifying that in his opinion, the applicant is qualified to meet the requirements of the Kentucky Shorthand Reporters Board, and will work during the term of the provisional certificate under the supervision of such sponsoring Certified Shorthand Reporter.

Section 8. A new section of KRS Chapter 325 is created to read as follows:

(1) The Board may revoke a certificate issued under this Act for professional incompetency, unethical conduct, or moral turpitude, except that no certificate under this Act shall be revoked without a hearing being held.

(2) The holder of the certificate shall be given written notice by certified mail return receipt requested at his last known address at least twenty days before a suspension or revocation hearing. The written notice shall state the cause of such contemplated action and shall set the time for the hearing as determined by the Board.

(3) The Board shall prescribe, by regulation, rules for the conduct of hearings held under this section. The rules shall provide for a fair hearing and shall require the board to make a record of the proceedings before it.

Section 9. A new section of KRS Chapter 325 is created to read as follows:

Within thirty days after final action by the Board following a hearing, an aggrieved party may petition Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the board's order except for errors of law, or upon a finding that the board's action was arbitrary or capricious. Either party may appeal the judgement of the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.

Section 10. KRS 28.410 is amended to read as follows:

(1) Each circuit judge *shall* [may] appoint a *certified shorthand* [an official stenographic] reporter *who is certified by the state board of shorthand reporters, to be attached to the court,* [for his court or division, except that if his judicial district embraces more than one (1) county, none of which contains a city of the third class, he may appoint one (1) official stenographic reporter for the district, or except that his court or division qualifies under the provisions of subsection (2) of this section. The reporter shall be skilled in the profession,] and shall hold office at the pleasure of the judge.

(2) Each circuit judge [regularly presiding over criminal trials] may, *if necessary due to the volume of cases,* employ an additional *certified shorthand* [stenographic] reporter[. The reporter shall be skilled in the profession, and shall] to hold office at the pleasure of the judge. [This subsection shall apply to circuit courts in counties containing a city of the first or second class.]

(3) *When a vacancy arises the judge shall forthwith give written notice of said vacancy to the Board. The Board will provide to said judge a list of certified shorthand reporters available to fill such vacancy. If no certified shorthand reporter is available to fill such vacancy, the judge in whose court the vacancy exists may then appoint any available qualified shorthand reporter who is not certified, to serve said court until the next regularly scheduled Certified Shorthand Reporter examination, at which time the reporter shall be required to take the examination. If such candidate were unsuccessful, and upon a showing of need and the Board's inability to provide a certified shorthand reporter, the Board shall issue a provisional certificate to such reporter for an additional twelve months.*

Section 11. KRS 28.430 is amended to read as follows:

(1) [(a)] Upon any trial or proceeding if either party requests the services of the reporter, or if, in the opinion of the presiding judge, the testimony should be preserved, the presiding judge shall direct the reporter to, and the reporter shall, take full stenographic notes of the proceedings.

[(b)] In counties having a population of 150,000 or more, the reporter of the criminal branch of the circuit court shall take down the proceedings in all cases, embracing preliminary motions, rulings of court, examination of jurors, testimony and arguments of counsel.]

(2) [In all criminal proceedings, upon] *Upon* the motion of either party the court shall order the reporter to make a full and accurate transcript and duplicate copy of his notes. The original shall be filed among the papers to be used in making up the record on appeal to the Court of Appeals. The duplicate copy shall be filed with the papers, and remain in the office of the clerk of the court as a public record.

(3) In all civil actions the record of proceedings and the transcript of evidence shall be made up in accordance with the Rules of Civil Procedure.

(4) *Nothing in this Act shall require use of a Certified Shorthand Reporter to take depositions in any proceeding where no adverse party is present in person or by counsel.*

Section 12. KRS 28.435 is amended to read as follows:

(1) Any circuit judge may, if he deems it necessary to aid the court and the stenographic reporter, require that a device for the recording of the testimony be used in any proceeding in a circuit court; Provided That such a device may not be used for recording the testimony in a proceeding unless the regular or a special stenographic reporter is present to take full stenographic notes of the proceeding. [, except that the court with the approval of the parties, acting through their respective attorneys, may require that a device be used solely for recording such testimony without the presence of a stenographic reporter.]

(2) The fiscal court of any county may purchase a recording device for the use of the circuit court of that county if it deems the purchase of such a device to be to the best interest of the county, considering the county finances and other permissible expenditures.

(3) *When the circuit judge required the use of a recording device, the supplies and repairs for said device shall be paid by the fiscal court of the county wherein the recording device is used.*

(4) [(3)] Recording device, as used in this section, means any device, materials and appurtenances, by which the voices of speakers are recorded so that they may be reproduced later in audible form.

Section 13. KRS 28.500 is amended to read as follows:

Certified Shorthand Reporters appointed pursuant to KRS 28.410 may, in any county of the state, take depositions [in shorthand], issue subpoenas for witnesses, compel the attendance of witnesses and administer oaths in the same manner as is provided by law for notaries public.

Section 14. A new section of KRS Chapter 28 is created to read as follows:

(1) Reporters appointed pursuant to this Act shall receive salaries in the amount fixed by the presiding judge of the circuit by written recommendation to the fiscal court of each county comprising the judicial district, which recommendation shall become effective upon its approval by resolution of the fiscal court or courts.

(2) In judicial districts comprising more than one county the official reporter shall be paid for necessary travel expense outside the county of his residence, and lodging, if such is required in the opinion of the presiding judge.

Section 15. A new section of KRS Chapter 28 is created to read as follows:

In criminal cases the transcript fees shall be paid, upon the order of the presiding judge, by the county in which the court is situated, if the transcript is ordered for the use of the Commonwealth's attorney. If the transcript is requested upon the motion of the defendant, he shall pay for same if, in the opinion of the court, he is able to do so. If it appears that the defendant is not able to pay for the transcript, the court shall direct that the cost of the original, together with all copies required by the defendant or defendants shall be paid by the county.

Section 16. A new section of KRS Chapter 325 is created to read as follows:

Violation of Section 5 of this Act shall be punishable upon conviction, by a fine of not less than \$50 nor more than \$200. Each day of violation shall be considered a separate offense.

Section 17. KRS 28.440, 28.450, 28.460, 28.480 and 64.290 are repealed.

HB 648, AN ACT relating to electrical inspectors and electricians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(4) "Electrical inspector" means any person [employed by a city or county and engaged in the inspection of wiring used for the purpose of furnishing heat, light, or power] *certified by the Public Service Commission pursuant to this Act who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electric Code incorporated in Article 1 of the Standards of Safety of the Commonwealth of Kentucky or the Electric Code of any city or county of the Commonwealth of Kentucky.*

Section 2. KRS 227.460 is amended to read as follows:

[(1) KRS 227.450 to 227.500 apply to cities of the second and third classes, and counties containing those cities.]

[(2)] KRS 227.450 to 227.500 shall not apply to [rural electric cooperatives, to factory maintenance men or any employees of the utility companies, railroads or municipalities in pursuit of their respective employer's business] *installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located out doors on property owned or leased by the utility or on public highways, streets or roads, or outdoors by established rights on private property.*

Section 3. A new section of KRS Chapter 227 is created to read as follows:

(1) The Public Service Commission shall establish qualifications for the certification of electrical inspectors, schedule examinations for certification at regular intervals, and issue certificates. Before certification is issued, the person applying shall execute bond. The bonds of electrical inspectors shall have a corporate surety, approved by the Commission, in the sum of \$25,000 and shall be made to the state. The bonds shall be conditioned on the faithful discharge of the duties of electrical inspector.

(2) Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the National Electrical Code, for a period of five years, may be certified on the basis of knowledge of the subject and experience.

Section 4. A new section of KRS Chapter 227 is created to read as follows:

(1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his signature and certification number in a conspicuous place on the main service entrance equipment. He shall also provide the owner of the electrical installation or his authorized agent a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the Public Service Commission upon its request.

(2) No electrical inspector shall attempt to supplant, overrule or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure or other project have been solicited by an owner, contractor, municipality or other person(s) without first obtaining express written consent from the designated inspector's office supervising the original inspector. Failure of an electrical inspector to observe this provision shall subject said inspector to review by the Public Service Commission with possible suspension of certification for a period not to exceed one year from date of the Commission's ruling.

Section 5. A new section of KRS Chapter 227 is created to read as follows:

It shall be the duty of the Public Service Commission to investigate alleged misconduct of any electrical inspector as certified under this Act when, in the opinion of the Commission, there is sufficient evidence to suggest that such misconduct exists. Any party or parties may seek redress from the Public Service Commission when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party or parties.

Section 6. KRS 227.485 is hereby repealed.

SB 100, AN ACT relating to licenses to traffic in alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.100 is amended to read as follows:

No person shall become a licensee under KRS 243.020 to 243.670 who:

(1) Has been convicted of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or any felony, within two (2) years preceding the application;

(2) Is under the age of twenty-one (21) years;

(3) Is not *an actual bona fide resident of* [a citizen of the United States and has not had an actual, bona fide residence] this state for at least one (1) year before the date on which his application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state or to persons licensed on March 7, 1938;

(4) Is a partnership or corporation, unless each member of the partnership or each of the directors, principal officers, managers and employes of the corporation has not been convicted of any misdemeanor directly attributable to the use of alcoholic beverages, or a felony, *and* is twenty-one (21) years of age or more [and is a citizen of the United States];

(5) Has had any license issued under this statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(6) Is a partnership or corporation, if any member of the partnership or any director or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction.

The Committee Amendment to **SB 100** is as follows:

Amend printed copy of Senate Bill 100, page 1, line 10,

by deleting the words "*an actual bona fide resident of*" and by removing the bracket before "a";

and on line 12 by removing the bracket after "residence";

and on line 19 by removing the comma after "directors" and inserting in lieu thereof the word "*and*";

and on page 2 by removing the comma after "officers" and by placing brackets before "managers" and after "employes";

and on line 4 by deleting the word "*and*" and by removing the bracket before "*and*";

and on line 5 by removing the bracket after "States".

The Committee on Highways and Traffic Safety reported **HB 401, HB 576, HB 580, HB 595, HB 687, and HB 702** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 401, AN ACT relating to Turnpike Authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175A.060 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate turnpike projects at such locations within city or cities and the county or counties participating in the authority;

(2) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(3) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it;

(4) To combine for financing purposes any two (2) or more turnpike projects within the county or counties participating in the authority;

(5) To lease as lessor any turnpike project or projects to the department as lessee, pursuant to the terms and provisions of a lease;

(6) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the department pursuant to a lease;

(7) Without reference to KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the department may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(9) To make and enter into such contracts and agreements with the department and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(10) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(11) To receive and accept from the commonwealth or any political subdivision thereof, the department and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; [provided further, notwithstanding any provision of KRS 177.365 to 177.368 the legislative body of any incorporated city and the fiscal court of any unincorporated urban places located in a turnpike authority may irrevocably pledge or contribute all or any portion of funds allocated to it under KRS 177.365 to 177.368 to such turnpike authority to carry out the provisions of this chapter;]

(12) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

HB 576, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by *the state fire marshal or his deputies; or a fire department; any vehicle used for emergency purposes by the state police, a public police department, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a volunteer fireman while responding to an emergency.*

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 2. KRS 189.950 is amended to read as follows:

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad

may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency in the performance of his official duties as a member of a fire department or rescue squad.

(5) *The state fire marshal may equip any publicly or privately owned vehicle used by the fire marshal's office with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle. Any deputy state fire marshal may equip his vehicle with red flashing, rotating, or oscillating red lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the state fire marshal. The state fire marshal and his deputies may use such lights and equipment when responding to any emergency call or when enforcing statutes or regulations under the jurisdiction of the fire marshal.*

HB 580, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.030 is amended to read as follows:

(1) Lights, when required on a vehicle shall be illuminated during the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, *during periods of heavy precipitation such as rain, sleet, hail, snow, fog or smoke*, and at such other times as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period. Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

(2) Cities may by ordinance designate certain well-lighted streets or parts of the streets as being sufficiently illuminated during certain periods as to make lights unnecessary. In this case subsection (1) shall not apply to vehicles parked in those streets during such periods.

HB 595, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.480 is amended to read as follows:

(1) The state police *shall* [may] examine every applicant for an operator's license or renewal of an operator's license except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless the applicant is granted written permission by the circuit clerk of the county in which he resides, to take the examination in another county, and the state police agrees to arrange for the examination in the other county. The examination may include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of traffic laws and an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section.

(2) Any person whose operator's license is denied, suspended or revoked for cause, shall apply for reinstatement at the termination of the period for which the license was denied, suspended or revoked by submitting to the examination.

HB 687, AN ACT relating to off-road vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:

(1) "Off-road vehicle" means a motor vehicle capable of cross-country travel, without the benefit of a road or trail. It does not include a farm vehicle, a vehicle used for military or law enforcement purposes, a vehicle used in construction, mining, or other industrial-related purposes, aircraft, or any other vehicle registered under state law.

(2) No person shall operate on off-road vehicle on any private or public property without the consent of the landowner, tenant, or governmental agency responsible for the property.

(3) Any person who violates this Act shall be fined not more than \$500 or imprisoned for not more than six months, or both.

(4) Any person who damages another person's property while violating this Act shall be liable for double damages to the property owner.

HB 702, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 176 is created to read as follows:

(1) In all cases where only state funds or bond proceeds are to be used to acquire highway rights of way or for highway construction, including projects authorized under provisions of KRS Chapters 175, 175A, 177 and 180, the department of transportation shall adopt the same public hearing procedures as are required for federal-aid projects by U. S. Department of Transportation Policy and Procedure Memorandum 20-8 (23 Code of Federal Regulations Part 790) or Chapter 40-12 of the state's "Action Plan," as approved by the Federal Highway Administration on November 30, 1973; except that the post-hearing approval specified in Action Plan 40-12.07700 shall be required of the state highway engineer and the Secretary of Transportation.

(2) Prior to the acquisition of right of way and the start of construction on any project financed wholly with state funds, the department shall notify the State Representative and State Senators who represent the areas affected by the proposal.

The Committee on Judiciary reported **HB 353** with Committee Amendment attached thereto, **HB 378**, **HB 457**, **HB 529**, **HB 589**, and **HB 590** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 353, AN ACT relating to offenses committed by juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.110 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest, and a child after having been so taken into custody shall be dealt with as provided in KRS 208.010 to 208.540. The law relating to bail shall not be applicable to children detained in accordance with KRS 208.010 to 208.540.

(2) When a child is taken into custody by a person other than a peace officer, on a charge of committing a public offense, such person shall as soon as possible place the child in the custody of a peace officer.

(3) When a peace officer has taken or received a child into custody *or has issued a traffic ticket, citation or a summons* on a charge of committing *any motor vehicle offense, alcoholic beverage offense, or other offense not normally under the jurisdiction of juvenile court, or other offense* [an offense,] under the provisions of KRS 208.020 (1) (a), (b), or (c) the officer shall immediately notify the parent, or if the parent is not available, then a relative, guardian, or custodian of the child, that the child has been detained, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for the detention, and state the time and place of the detention hearing. Unless the nature of the offense or other circumstances are such as to indicate the necessity of keeping the child in secure custody, the officer shall release the child to the custody of his parent or other responsible adult upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may direct. The written promise, accompanied by a written report by the officer, shall be submitted to the court forthwith. If the person fails to produce the child as agreed or upon notice from the court, a petition, warrant, or both may be issued for the apprehension of the person or of the child, or both.

(4) If the child is not released as provided in subsection (3) of this section, the child shall be taken without delay to the court or to the detention facility provided for under KRS 208.130. If taken to the detention facility, the officer shall as soon as possible thereafter make a written report to the court, stating the fact of such detention, the offense charged, and the reason why the child was not released to the parent or other responsible adult. Pending further disposition of the case, the court may release the child to the custody of the parent or other responsible person or may continue to hold the child in detention. When a child is detained in any way or for any reason, there shall be a hearing held within forty-eight hours, exclusive of Sunday, of the commencement of detention to determine whether or not there is reasonable cause to believe that an offense has been committed and that the detained child committed the offense. The Commonwealth shall bear the burden of proof, and if it shall fail to establish such reasonable cause, the child shall be released and the complaint dismissed. If such reasonable cause is established, the court shall then determine whether or not the circumstances surrounding the child are such as to endanger its safety or welfare or that of the community. The Commonwealth shall bear the burden of proof and it shall be by a preponderance of the evidence. Upon such showing of proof and order of the court, the child shall be detained until such time as the court may withdraw the order for detention or make a speedy disposition in the child's best interest. Unless such a hearing is held and the necessity for detention properly established, the child shall be released to the custody of its parent or other responsible person pending further disposition of the case. A child shall have a right to counsel at any hearing determining its right to freedom pending the disposition of its case, and its parents or other responsible person shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(5) Whether the child is released before or after a hearing, or is detained as the result of such a hearing, the child and his parents, relative, guardian, or custodian shall be given written notice of the time and place of the adjudicative hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least forty-eight hours prior to the initial hearing on the case.

The Committee Amendment to **HB 353** is as follows:

Amend printed copy of House Bill 353, page 1, line 17,

to delete "*or has issued a traffic ticket, cita-*"

and on page 1, line 18, to delete "*tion or a summons*" and "*any motor*"

and on page 1, lines 19 and 20, to delete the same

and on page 2, line 1 to delete "*court, or other offense*" and to delete the brackets "[]" surrounding "an offense,"

and on page 4, below line 18, to add the following:

"(6) Prior to trial by any court of a child charged with any motor vehicle offense or alcoholic beverage offense, or any other offense not normally under the jurisdiction of juvenile court, the court shall notify the parent, guardian, or custodian of the child that the child has been charged, give an account of the specific charges against the child and state the time and place of the trial of such charge."

HB 378, AN ACT to prohibit the unauthorized reproduction and distribution of certain recorded devices for sale.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 434 is created to read as follows:

(1) Any person who transfers or causes to be transferred any sound recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded on to any other phonograph record, disc, wire, tape, film or article or who sells or distributes, offers for sale or distribution, possesses for the purpose of sale or distribution, or causes to be sold or distributed any article or device on which sounds have been transferred, without the consent of the person who owns the master phonograph record, master disc, master

tape, or other device or article from which sounds are derived shall be fined not more than one thousand dollars (\$1,000) or double the amount of the gain from the commission of the offense, which ever is greater, or imprisoned for not more than sixty (60) days, or both.

(2) Any person who sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film or other article bears the true name and address of the transferor of the sounds in a prominent place on its packaging shall be fined no more than one thousand dollars (\$1,000).

(3) This Act does not apply to any person who transfers or causes to be transferred any such sounds intended for or in connection with radio or television broadcast transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

(4) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the state police upon discovery to confiscate the recorded devices produced in violation of this Act. Any recorded device produced in violation of this Act, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

HB 457, AN ACT relating to the Judicial Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.345 is amended to read as follows:

(1) For the purposes of KRS 21.350 to 21.510, "retirement" means a voluntary resignation or a failure of re-election, but does not include a removal for cause.

(2) The word "service" as used in KRS 21.370 to 21.480 means service as a judge or commissioner of the Court of Appeals, or as a regular circuit judge, or as director of the administrative office of the courts, including service in one (1) and then another of those capacities.

(3) For the purposes of KRS 21.345 to 21.520, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service in any calendar month shall be deemed to constitute a month of service.

HB 529, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky Commission on Human Rights.

(3) "Commissioner" means a member of the commission.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty and sixty-five, or the aiding, abetting, inciting, coercing or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(9) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(10) "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(11) *"Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.*

Section 2. KRS 344.020 is amended to read as follows:

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 (78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81), and the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602);

(b) To safeguard all individuals within the state from discrimination because of race, color, religion, [and] national origin, sex, and age [in connection with employment, public accommodations and real estate transactions]; thereby to protect their interest in personal dignity and freedom from humiliation [in places of public accommodation and in real estate transactions], to make available to the state their full productive capacities [in employment], to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health and general welfare, and to further the interest, rights and privileges of individuals within the state; [and to prohibit discrimination in employment against individuals because of sex, or age between forty and sixty-five;]

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his own property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of race, color, religion, national origin, sex, or age [between forty and sixty-five].

Section 3. KRS 344.300 is amended to read as follows:

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting discrimination on the basis of race, color, religion, or national origin, sex, or age, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(2) Cities and counties may adopt and enforce ordinances, orders and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by KRS 344.365.

Section 4. KRS 344.310 is amended to read as follows:

Any city or county, or one or more cities and counties acting jointly, may create a human rights commission (hereinafter a "local commission"):

(1) To provide for execution within its jurisdiction of the policies embodied in this chapter and the federal civil rights act of 1964 (78 Stat. 241); and

(2) To safeguard all individuals within its jurisdiction from discrimination because of race, color, religion, or national origin, *sex, or age*.

Section 5. KRS 344.370 is amended to read as follows:

It is an unlawful practice for a financial institution or an individual employed by or acting on behalf of a financial institution:

(1) To discriminate against an individual because of the race, color, religion, or national origin, *sex, or age* of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer, employe, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith; or

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, or national origin or an intent to make such a limitation, specification, or discrimination.

(3) *To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligors in real estate transactions.*

Section 6. A new section of KRS Chapter 344 is created to read as follows:

(1) It shall be an unlawful practice to deny an individual, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, bar, hotel, or motel.

(2) The provisions of this section shall not apply to:

(a) restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;

(b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) the exemptions contained in KRS 344.130.

Section 7. A new section of KRS Chapter 344 is created to read as follows:

(1) It shall be an unlawful practice for any person, whether acting for himself or another, in connection with any credit transaction because of race, color, religion, national origin or sex to:

(a) deny credit to any person;

(b) increase the charges or fees for or collateral required to secure any credit extended to any person;

(c) restrict the amount or use of credit extended or impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

(d) attempt to do any of the unlawful practices defined in this section.

(2) The provisions of this section shall not prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) The provisions of this section shall not prohibit any party to a credit transaction from considering the application of Kentucky law on dower, curtesy, descent and distribution to the particular case or from taking reasonable action thereon.

Section 8. A new section of KRS Chapter 344 is created to read as follows:

Any person deeming himself injured by any act in violation of the provisions of this chapter shall have a civil cause of action in circuit court to enjoin further violations, and to recover the actual damages sustained by him, including damages for humiliation and embarrassment, together with the costs of the law suit, including a reasonable fee for his attorney of record, all of which shall be in addition to any other remedies contained in this chapter.

Section 9. To carry out the foregoing provisions of this Act relating to discrimination, there shall be appropriated to the Commission on Human Rights from the general expenditure fund in the state treasury the sum of \$75,000 for the fiscal year, 1974-75 and the sum of \$75,000 for the fiscal year, 1975-76.

Section 10. A new section of Subtitle 12 of Chapter 304 of the Kentucky Revised Statutes is created to read as follows:

No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin or sex except that rates determined through valid actuarial tables shall not be violative of this Act.

HB 589, AN ACT relating to dissolution of marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.025 is amended to read as follows:

The statements of a petition for *dissolution of marriage concerning the residence of the parties and irretrievable breakdown of the marriage* [a divorce] shall not be taken as true because of the respondent's [defendant's] failure to *deny the statements*, [answer, or admission of their truth;] and the facts as to residence of the parties must be proved by one or more creditable witnesses.

HB 590, AN ACT relating to the disclosure of psychiatric information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 421.215 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Patient" means a person who, for the purpose of securing diagnosis or treatment of his mental condition consults a psychiatrist;

(b) "Psychiatrist" means a person licensed to practice medicine who devotes a substantial portion of his time to the practice of psychiatry, or a person reasonably believed by the patient to be so qualified;

(c) "Authorized representative" means a person empowered by the patient to assert the privilege granted by this section and, until given permission by the patient to make disclosure, any person whose communications are made privileged by this section.

(2) *At no time shall any person request a patient's permission to obtain psychiatric information until the patient has consulted with his psychiatrist, and the psychiatrist has explained in full the nature of the contents of the patient's psychiatric information, and the possible results of the disclosure of the patient's psychiatric information.*

(3)[(2)] Except as hereinafter provided, in civil and criminal cases, in proceedings preliminary thereto, and in legislative and administrative proceedings, a patient, or his authorized representative, has a privilege to refuse to disclose, and to prevent a witness from disclosing, communications relating to diagnosis or treatment of the patient's mental condition between patient and psychiatrist, or between members of the patient's family and the psychiatrist, or between any of the foregoing and such persons who participate, under the supervision of the psychiatrist, in the accomplishment of the objectives of diagnosis or treatment.

(4)[(3)] There shall be no privilege for any relevant communications under this section:

(a) When a psychiatrist, in the course of diagnosis or treatment of the patient, determines that the patient is in need of admission to or commitment to a hospital for care of the patient's mental illness;

(b) If a judge finds that the patient, after having been informed that the communications would not be privileged, has made communications to a psychiatrist in the course of a psychiatric examination ordered by the court provided that such communications shall be admissible only on issues involving the patient's mental condition;

(c) In a civil proceeding in which the patient introduces his mental condition as an element of his claim or defense, or, after the patient's death, when said condition is introduced by any party claiming or defending through or as a beneficiary of the patient, and the judge finds that it is more important to the interests of justice that the communication be disclosed than that the relationship between patient and psychiatrist be protected.

Calendar

HR 50, HB 83, HB 84, HB 85, HB 414 with Committee Amendment attached thereto, **HB 443, HB 496, HB 518, HB 588, HB 608, HB 253, HB 586, HB 170** with Committee Substitute attached thereto, **HB 176** with Committee Substitute attached thereto, **HB 220, HB 272, HB 491** with Committee Amendment attached thereto, **HB 493** with Committee Amendment attached thereto, **HB 552, HB 581** with Committee Amendment attached thereto, **HB 603, HB 650, SB 112, SB 172, HB 319** with Committee Amendment

attached thereto, taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Denham moved the adoption of the following Legislative Citation No. 107:

The House of Representatives of the Commonwealth of Kentucky hereby honors the Mason County High School Concert Choir and director Mrs. Coralie J. Runyon for having been selected to participate in the Youth and Music Festival in Vienna, Austria, during July, 1974. This body applauds the national and international recognition this invitation represents, as only fifteen choirs are chosen by a committee of nationally famous choral conductors to represent the United States in this Vienna festival and to present concerts in several cities in Europe.

This body commends Mrs. Coralie J. Runyon for her outstanding contributions in directing the Mason County High School Concert Choir to Superior ratings each year and for having presented fourteen concerts in England in 1968.

This body extends best wishes to the Choir and Mrs. Runyon for their performances in the Youth and Music Festival. (Sponsored by Representative Denham)

Agreed.

Representative Denham moved that all legislation that has not had a first reading be referred to the Committee on Appropriations and Revenue if there is an appropriation or an implied appropriation.

On the roll call the vote was yeas 49-Allen, Arnold, Bennett, Brewer, Bruce, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Dunn, Foster, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Holbrook, Isler, Kafoglis, Kareem, Kidd, Lindsay, Little, Loudon, Mason, May, Morgan, Nett, O'Brien, Pearman, Quickert, Robinson, Romines, Sharpe, Siemens, Smith, Stephens, Stewart, Troop, Turner, Van Horn, Vincent J. White, Whitfield, Yates. Nays 8-Burch, Dawahare, Harris, Hopkins, Imes, Kenton, Lewis, McBride.

The motion that all legislation that has not had a first reading be referred to the Committee on Appropriations and Revenue if there is an appropriation or an implied appropriation was adopted.

Orders of the Day

Representative Swinford moved that consideration of **HB 304**, **HB 386**, **HR 30**, **SB 87**, **HB 96** with Committee Amendment attached thereto, **HB 166**, and **HB 476** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 237 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved that **HB 237** be placed upon its passage.

On the roll call the vote was yeas 87-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 2-Blume, E. Brown.

HB 237 was passed and the title agreed to.

Representative Freeman moved that the vote by which **HB 237** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 262 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved that **HB 262** be placed upon its passage.

On the roll call the vote was yeas 85-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Freeman, Gay, Givhan, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Raynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible. Nays 0.

HB 262 was passed the the title agreed to.

Representative Swinford moved that the vote by which **HB 262** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 379, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmaedecke moved the adoption of the Committee Substitute to **HB 379**. Agreed.

Representative Overstreet moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 379**:

Amend printed copy of Committee Substitute for House Bill 379, page 3, line 13,

after "180" add the words "days in the event the petition was filed forthwith by virtue of Departmental Placement of placement by an agency licensed by the department or"

Line 13, remove the brackets from the words "ninety (90)" and after the word "days" add the words "in the case of private placement"

Agreed.

Representative Schmaedecke moved that **HB 379**, by way of Committee Substitute as amended, be placed upon its passage.

Representative Wible moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute to **HB 379**:

Amend printed copy of Committee Substitute for House Bill 379, page 5, line 1,

by bracketing all of line 1

line 2, by removing the brackets from "From"

also on line 2, by placing brackets around "filing of the petition"

line 3, by removing the brackets from "judgment"

On the roll call the vote was yeas 23-Adams, Arnold, Blandford, E. Brown, Clarke, Dawahare, Givhan, Graves, Hellard, Kafoglis, Lewis, Lindsay, Mason, O'Brien, Richardson, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, Wells, Wible. Nays 50-Allen, Bennett, Benson, Blume, Brewer, Bruce, Burch, Chandler, Crupper, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Hancock, Hardin, Harris, Holbrook, Hughes, Isler, Kareem, Kidd, King, Little, Loudon, Mann, May, McBee, McBrayer, McBride, McGill, Nett, Overstreet, Paxton, Rattliff, Reynolds, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stewart, Thomas, Turner, G. White, J. White, Whitfield.

The Floor Amendment No. 2 to the Committee Substitute to **HB 379** was rejected.

On the roll call the vote was yeas 86-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 379, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Schmaedecke moved that the vote by which **HB 379**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 82**, **SB 245**, **HB 26** with Amendment, **HB 119**, **HB 148**, **HB 356**.

Orders of the Day (continued)

HB 398 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved that **HB 398** be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 0.

HB 398 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 398** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 489** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 503, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Chandler moved the adoption of Committee Amendment No. 2 to **HB 503**. Agreed.

Representative Schmidt moved the adoption of the following Floor Amendment No. 3 to **HB 503**:

Amend printed copy of House Bill 503, page 3, line 9,

following the word "be", by deleting "\$4.00" and inserting in lieu thereof "\$5.00", and page 3, line 20, following "(a)", by inserting "Two dollars and twenty-five cents", by placing a bracket before the word "one", by removing the bracket before the word "twenty-five", and by deleting the word "seventy-five"

page 5, following line 17, by inserting the following:

"Section 4. KRS 186.414 is amended to read as follows:

(1) *All licenses issued or renewed after the effective date of this Act shall be valid for a period of three (3) years and shall be renewed during the applicant's birth month thereafter.*

Applications for renewal licenses shall be according to the following schedule:

[(1) Persons whose family names begin with the letters "A" through "K" inclusive, shall before August 1, 1958, apply at the office of the circuit court clerk in the county in which he resides, and make application upon a form furnished by the department for a renewal license, which will expire on his birth month in the year 1960, and shall be renewed every two (2) years during the applicant's birth month thereafter.]

[(2) Persons whose family names begin with the letters "L" through "Z" inclusive shall, before August 1, 1959, apply at the office of the circuit court clerk in the county in which he resides, and make application upon a form furnished by the department for a renewal license, which will expire on his birth month in the year 1961, and shall be renewed every two (2) years during the applicant's birth month thereafter.]

(2)/[(3)] Any person who is a resident of this state and who has obtained an operator's license in the manner provided for in this chapter, which has not been canceled, suspended or revoked for any reason provided for in this chapter, and who is in the active service of the armed forces of the United States, *and other licensed drivers temporarily out-of-county* shall, upon written application to the circuit court clerk of the county in which he resides, be granted an extension of his operator's license beyond the periods set forth in subsections (1) and (2) of this section. Upon application the circuit court clerk shall issue to the applicant a written certification of operator's license extension. The extension so granted shall be effective so long as the applicant is an active member of the armed forces or six (6) years from the date of the application whichever is less.

(3)/[(4)] The procedure for renewing or extending a motorcycle operator's license shall be the same as required by this section for other operator's licenses. A motorcycle operator's license shall be renewed in the same manner as an operator's license."

On the roll call the vote was yeas 75-Allen, E. Brown, Crupper, DeMarcus, Dietz, Donnermeyer, Holbrook, Isler, King, Mann, McBee, McBride, Morgan, Paxton, Richardson, Robinson, Schmaedecke, Schmidt, Stephens, Stewart, Stone, Thomas, Van Horn, Watkins, J. White. Nays 44-Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clarke, Dunn, Gay, Graves, Hardin, Harris, Head, Hughes, Kafoglis, Kareem, Kleier, Lewis, Little, Loudon, Mason, May, Maynard, McBrayer, Nett, Pearman, Quickert, Romines, Sharpe, Siemens, Swinford, Troop, Turner, Vincent, Wells, G. White, Whitfield, Wible, Yates.

The Floor Amendment No. 3 to **HB 503** was rejected.

Representative Chandler moved the adoption of the Committee Amendment No. 1 to **HB 503**. Agreed.

Representative Chandler moved that **HB 503** as amended be placed upon its passage.

On the roll call the vote was yeas 67-Adams, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, E. Brown, R. Brown, Bruce, Burch, Chandler, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hardin, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, May, Maynard, McBrayer, McGill, Nett, Pearman, Priddy, Quickert, Rattliff, Reynolds, Romines, Sale,

Schmaedecke, Sharpe, Siemens, Stewart, Stone, Swinford, Thomas, Turner, G. White, Whitfield, Wible, Yates. Nays 23-Allen, Arnold, Clapp, Crupper, Hancock, Harris, Hislope, Lindsay, Mason, McBee, McBride, Overstreet, Paxton, Richardson, Robinson, Schmidt, Stephens, Troop, Van Horn, Vincent, Watkins, Wells, J. White.

HB 503 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 503** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 51 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 51** be placed upon its passage.

Representative Richardson moved the adoption of the following Floor Amendment No. 2 to **SB 51**:

Amend printed copy of Senate Bill 51, page 2, lines 5-6,

delete "five thousand dollars (\$5,000),

delete brackets before "twenty-five" on line 6 and after "\$2500."

and on page 3, line 4, delete "five thousand dollars (\$5,000) and the bracket before "twenty-five" and after "(\$2,500)" on line 5.

On the roll call the vote was yeas 60-Adams, Allen, Arnold, Benson, Beshear, Blandofrd, Brewer, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Gay, Givhan, Guenthner, Hancock, Hardin, Hellard, Hislope, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, King, Louden, Mann, Mason, May, Maynard, Morgan, O'Brien, Overstreet, Pearman, Rattliff, Reynolds, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Thomas, Troop, Van Horn, Vincent, Watkins, Whitfield, Wible. Nays 16-Bennett, Blume, Blythe, Graves, Lewis, Lindsay, Little, McBee, McBrayer, McBride, McGill, Paxton, Quickert, Sale, Swinford, Turner.

The Floor Amendment No. 2 to **SB 51** was adopted.

Representative Lindsay moved that **SB 51** as amended be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Louden, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 1-DeMarcus.

SB 51 as amended was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 51** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative Reynolds moved that the House recess for fifteen minutes for members of the majority party to meet in Room 307. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

HB 95 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Givhan moved that **HB 95** be placed upon its passage.

On the roll call the vote was yeas 68-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Bruce, Burch, Chandler, Clarke, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Harris, Hellard, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, Maynard, McBee, McBrayer, McGill, O'Brien, Overstreet, Paxton, Rattliff, Reynolds, Richardson, Romines, Sale, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 2-McBride, Stephens.

HB 95 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 95** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 397** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 439 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Karem moved that **HB 439** be placed upon its passage.

On the roll call the vote was yeas 84-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 439 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 439** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 456**, with Committee Substitute attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

HB 471 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Whitfield moved that **HB 471** be placed upon its passage.

On the roll call the vote was yeas 82-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, G. White, J. White, Whitfield, Wible, Yates. Nays 1-Lindsay.

HB 471 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 471** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 478 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that **HB 478** be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenthner, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0.

HB 478 was passed and the title agreed to.

Representative Pearman moved that a call of the roll be taken to show co-sponsors of **HB 478**. Agreed.

The following members voted to co-sponsor **HB 478**: Representatives Adams, Allen, Arnold, Blandford, R. Brown, Burch, Chandler, Crupper, Dawahare, DeMarcus, Foster, Givhan, Head, Hislope, Karem, Kenton, Kidd, Lindsay, Little, Mason, May, Overstreet, Richardson, Romines, Sale, Siemens, Stephens, Stewart, Stone, Thomas, Turner, Van Horn, Vincent, Watkins, J. White, Wible.

Representative Pearman moved that the vote by which **HB 478** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 593 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 593** be placed upon its passage.

On the roll call the vote was yeas 78-Allen, Arnold, Bennett, Beshear, Blandford, Blume, Blythe, Brewer, Burch, Chandler, Clapp, Davis, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Sible, Yates. Nays 2-Benson, Loudon.

HB 593 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 593** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 613 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved that **HB 613** be placed upon its passage.

On the roll call the vote was yeas 76-Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, Burch, Chandler, Clapp, Clarke, Davis, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Whitfield, Yates. Nays 7-Denham, Hislope, Holbrook, Lewis, Robinson, J. White, Wible.

HB 613 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 613** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative G. White moved that the House concur in the following Senate Amendment to **HB 65**:

Amend printed copy of House Bill 65 as follows: on page 2, line 14, by deleting lines 14, 15, 16, 17 and 18 in their entirety; and by renumbering subsections "8, 9 and 10" and the subsequent subsections "11" and "12" on page 3, to read subsections "6, 7 and 8", and on page 3, "9 and 10", respectively; and after line 8 on page 3, by inserting:

"(11) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a mobile home dealer, which shall include the books, records, files and equipment necessary to properly conduct such business, or a building having sufficient space therein to properly show and display the mobile homes being sold and in which the functional duties of a mobile home dealer may be performed. The place of business shall not consist of a residence, tent, temporary stand or open lot. It shall display a suitable sign identifying the dealer and his business."

Page 3, line 14, by deleting the word "license" and inserting the words "licenses to" in lieu thereof; and after the word "dealers" delete the words "and salesmen".

Page 6, line 13, before the words "or sell" by inserting ", import";

Page 6, line 25, by deleting the word "issue" and inserting the word "issuance" in lieu thereof; and after the word "of" by deleting the word "certificates" and inserting in lieu thereof "a certificate";

Page 7, line 20, by deleting the word "may" and inserting the word "shall";

Page 9, line 13, by striking "(1)"; and by deleting lines 17, 18, 19, 20, 21 and 22 in their entirety;

Page 10, by deleting lines 3, 4, 5, 6, 7, 8 and 9 in their entirety;

Page 10, line 10, by deleting "(4)" and inserting "(2)" in lieu thereof and on line 20, by deleting "(5)" and inserting "(3)" in lieu thereof;

Page 10, line 23, by deleting the word "A" and deleting lines 24 and 25 in their entirety;

Page 11, by deleting lines 1 and 2; and on line 3 by striking "(6)" and inserting "(4)" in lieu thereof; and by deleting lines 10, 11, 12 and 13 in their entirety;

Page 11, line 14, by deleting "(e)" and inserting "(c)" in lieu thereof;

Page 11, line 17, by deleting "(7)" and inserting "(5)"; and on line 20, by deleting "(8)" and inserting "(6)" in lieu thereof;

Page 12, line 2, by deleting "(9)" and inserting "(7)" in lieu thereof; and on line 5, by deleting the word "department" and inserting the word "office" in lieu thereof;

Page 12, line 15, by deleting "(10)" and inserting "(8)" in lieu thereof; and on line 21, after the word "license", by inserting "or certificate of acceptability"; and by inserting before the semicolon (;) on line 25, "or certificat of acceptability";

Page 13, line 2, by deleting the word "section" and inserting the word "Act" in lieu thereof; and by deleting the wrod "Section 5 of" and on line 4, by striking the wrods "retail" and "to the" and inserting";" in lieu thereof and by deleting line 5 in its entirety; and on line 7, after the word "buyer" by inserting the words "or dealer" and on line 12, by striking the words "having made" and inserting in lieu thereof, the word "making"; line 14 by striking "(k)" and inserting in lieu thereof"(i)";

Page 13, line 19, by deleting "Being a dealer and having acquired ownership of";

Page 13, by deleting lines 20, 21 and 22 in their entirety and inserting in lieu thereof the following: "Failure by a dealer to put the title to a mobile home or recreational vehicle in his name after said dealer has acquired ownership of the mobile home or recreational vehicle by trade or otherwise."

Page 13, line 23, by deleting the words "Having violated" and inserting in lieu thereof the following: "Violation of";

Page 15, line 12, before the word "within" by inserting the words "or certificate of acceptability"; and on line 15, after the word "license" by inserting the words "or certificate of acceptability"; and on line 17 after the word "licensee" by inserting the words "or certificate holder"; and on line 18, by deleting the word "against" and inserting the words "to be heard";

Page 15, line 19, by striking the line in its entirety;

Page 15, line 20, after the word "manufacturer" insert the words "or dealer" and on line 21, after the word "Act" insert the words "or any rules or regulations promulgated thereunder";

Page 15, line 23, after the word "within", insert the word "sixty", by deleting "60" and inserting in lieu thereof: "(60)"; and on line 24 after the word "manufacturer", insert the words "or dealer";

Page 16, line 2, by inserting "or license" after the word "acceptability"; and on line 3, after the word "manufacturer" insert the words "or dealer" and on line 5, after the word "manufacturer" insert the words "or dealer" and on line 9, by deleting the "." and inserting "; or that" in lieu thereof; and on lines 10 and 11, by deleting the words "of mobile homes or recreational vehicles"; and on line 13, after the word "than" insert the word "to" and by deleting lines 14, 15, 16, 17 and 18 in their entirety; and line 20, by deleting the word "department" and inserting the word "office" in lieu thereof;

Page 17, line 3, by inserting the words "or certificate of acceptability" after the words "a license"; and on line 4, before the words "shall be granted" by placing the words "or certificate"; and by deleting the word "board" and inserting the word "Board" in lieu thereof; and on line 5, after the word "licensee" by inserting the words "or certificate holder" and on line 7, by deleting the words "Subsection" (1) of Section 9 of"; and after line 12, by inserting the following:

"Section 13. A new section of KRS Chapter 227 is created to read as follows:" and on line 13, by striking "(6)"; and on line 18, by striking "\$1,000" and inserting the words "one thousand dollars (\$1,000)" in lieu thereof; and after the word "confinement" by inserting the words "in the county jail for a period"; and on line 20, by striking "13" and inserting "14" in lieu thereof; and

Page 18, line 1, delete the words "so fined and"; and on line 2 striking the word "imprisoned"; and on line 3 by striking "14" and inserting "15" in lieu thereof.

Page 3, line 15, by deleting lines 15, 16, 17, 18, 19, 20, 21 and 22 in their entirety, and substituting in lieu thereof the following:

"(2) The Board shall consist of the State Fire Marshal, the Secretary of the Department of Transportation, the Commissioner of the Bureau for Health Services, or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include one (1) manufacturer of mobile homes, one (1) mobile home dealer, one (1) recreational vehicle dealer, and three (3) members who shall have no interest in the industry to be regulated."

And on page 3, by deleting lines 23, 24 and 25 in their entirety, and on page 4, by deleting lines 1, 2, 3, 4, 5 and 6 in their entirety, and substituting in lieu thereof the following:

"(3) The State Fire Marshal, the Secretary of the Department of Transportation, and the Commissioner of the Bureau for Health Services shall be permanent members of the Board, by virtue of their respective offices. The appointed members of the Board shall hold office for terms of four (4) years with their terms expiring on September 1 of even numbered years. Each member shall hold office until his successor is appointed and has qualified."

And on page 4, following the word "designate," by deleting the word, "one" and inserting, "three (3)" in lieu thereof, and on the same line by changing the word, "member" to "members" and on line 9, by deleting the word "two" and inserting "three (3)" in lieu thereof;

And on page 6, line 24, following the word, "and" insert the words, "systems for".

On page 8, following line 18, insert the following:

"(4) Notwithstanding the provisions of this Act, the Board shall have the authority to promulgate rules and regulations exempting manufacturers and dealers from the provisions of this Act when mobile homes and recreational vehicles are brought into this state for exhibition only."

And on page 8, following subsection "(4)" insert the following:

"(5) All rules, regulations, codes, fees and charges adopted by the board pursuant to this Act shall be prepared and filed in accordance with Chapter 13 of the Kentucky Revised Statutes."

And on page 11, line 19, following the "." by adding the following words: "at the close of each fiscal year all unencumbered revenues raised through the provisions of this Act shall lapse and revert to the General Fund of the Treasury of the Commonwealth."

And on page 14, following line 8, by inserting the following:

"(3) Upon proceedings for the suspension of a license or certificate of acceptability for any of the violations enumerated in this Act, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the Board, to pay in lieu of part or all of the days of any suspension the sum of fifty (\$50) dollars per day. Payments in lieu of suspension collected by the Board shall be deposited in the State Treasury and credited to the General Expenditure Fund."

And on page 14, line 13, following the "." by deleting the remainder of line 13, and by deleting lines 14, 15, 16, 17 and 18 in their entirety.

And on page 15, line 1, following the word "office" by inserting the following: ", subject to the provisions of Chapter 18 and Chapter 64 of the Kentucky Revised Statutes,"

Representative Hopkins moved that consideration of the Senate Amendment to **HB 65** be deferred and that it retain its position in Orders of the Day.

On the roll call the vote was yeas 17-Allen, Blandford, Blythe, Davis, Guenther, Holbrook, Hopkins, Isler, King, Overstreet, Pearman, Robinson, Stewart, Stone, Turner, Van Horn, J. Whitel Nays 53-Adams, Arnold, Bennett, Benson, Beshear, Blume, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, Denham, Dietz, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Hellard, Hughes, Hurst, Kafoglis, Karem, Kenton, Kleier, Lewis, Lindsay, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Paxton, Quickert, Reynolds, Richardson, Stephens, Swinford, Troop, Vincent, Wells, G. White, Whitfield, Wible, Yates.

The motion that consideration of the Senate Amendment to **HB 65** be deferred was rejected.

On the roll call the vote was yeas 66-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Harris, Head, Hellard, Hughes, Hurst, Isler, Kafoglis, Karem,

Kenton, Kidd, Kleier, Lewis, Lindsay, Louden, Mann, Mason, May, McBee, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Romines, Sale, Schmaedecke, Stephens, Swinford, Thomas, Van Horn, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 10-Allen, Blythe, Davis, DeMarcus, Hislope, Holbrook, Robinson, Stewart, Turner, J. White.

The motion that the House concur in the Senate Amendment to **HB 65** was adopted.

The Speaker moved that **HB 65** as amended be placed upon its passage.

On the roll call the vote was yeas 64-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, Denham, Dietz, Dunn, Foster, Givhan, Graves, Hancock, Harris, Head, Hellard, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Richardson, Romines, Sale, Schmaedecke, Stephens, Stewart, Swinford, Turner, Van Horn, Watkins, Wells, G. White, J. White, Wible, Yates. Nays 3-Allen, DeMarcus, Lindsay.

HB 65 as amended was passed and the title agreed to.

Representative G. White moved that the vote by which **HB 65** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 119**, **HB 148**, **HB 356** have been examined and found correctly enrolled. **HB 119**, **HB 148**, and **HB 356** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative Swinford moved that the House concur in the following Senate Amendment No. 4 to **HB 249**:

Amend printed copy of House Bill 249 as follows:

Page 8, line 2, by adding after "operation" the following: *"may lower the water quality by chemical or sediment pollution of a wild river established pursuant to KRS Chapter 146 or streams or lakes within a state, national or interstate park or interfere with the aesthetic values or public use of a wild river established pursuant to KRS Chapter 146 or a state, national or interstate park. In determining whether a proposed strip mining operation may lower the water quality by chemical or sediment pollution of a wild river established pursuant to KRS Chapter 146 or streams or lakes within a state, national or interstate park in the vicinity of these operations or interfere with the aesthetic values or public use of a wild river established pursuant to KRS Chapter 146 or a state, national or interstate park, the division shall require of the applicant for the permit ample proof that such pollution or interference will not occur."*

And by adding a bracket before "will" and by striking "a wild";

And on line 3 by striking "river established pursuant to KRS Chapter 146, or";

And on line 6 by adding a bracket after "application."

On the roll call the vote was yeas 27-Benson, Beshear, Blandford, Blume, Blythe, Burch, Chandler, Clarke, Foster, Head, Hellard, Hughes, Kafoglis, Kareem, Kenton, Lewis, Mann, McBride, McGill, Reynolds, Siemens, Swinford, Van Horn, Vincent, Wells, G. White, Yates. Nays 52-Allen, Bennett, Brewer, R. Brown, Bruce, Clapp, Davis, DeMarcus, Denham, Dietz, Dunn, Gay, Givhan, Graves, Hancock, Hardin, Harris, Hislope, Holbrook, Holloway, Hurst, Isler, Kidd, Kleier, Lindsay, Little, Loudon, Mason, May, McBee, McBrayer, Morgan, Nett, O'Brien, Pearman, Rattliff, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Stephens, Stewart, Stone, Thomas, Troop, Turner, Watkins, J. White, Whitfield, Wible.

The motion that the House concur in Senate Amendment No. 4 to **HB 249** was rejected.

Representative Swinford moved that the House concur in the following Senate Amendment No. 5 to **HB 249**:

Amend printed copy of House Bill 249 as follows:

On page 11, line 7, by inserting after the “,” and before “the”, the following: “and the soil ph level required by division regulations has been satisfied,”

On page 12, line 4, by inserting after the “,” and before “less”, the following: “and the soil ph level required by division regulations has been satisfied,”

On the roll call the vote was yeas 42—Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Burch, Chandler, Clarke, Foster, Givhan, Harris, Head, Hellard, Hughes, Kafoglis, Kareem, Kleier, Lewis, Lindsay, Mann, McBee, McBride, Nett, Paxton, Rattliff, Reynolds, Richardson, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Swinford, Thomas, Van Horn, Vincent, Wells, G. White, Wible, Yates. Nays 30—Allen, Brewer, R. Brown, Bruce, Clapp, Davis, Denham, Dunn, Guenthner, Hardin, Hislope, Holbrook, Holloway, Hurst, Kenton, Kidd, Loudon, Mason, McBrayer, Morgan, O'Brien, Pearman, Sharpe, Stewart, Stone, Troop, Turner, Watkins, J. White, Whitfield.

The motion that the House concur in the Senate Amendment No. 5 to **HB 249** was adopted.

Representative Swinford moved that the House return **HB 249** to the Senate with the request that it recede from Amendment No. 4. Agreed.

Announcements

The Speaker appointed the following members to serve on the Return Ball Committee: Representative McBride, Chairman; Representatives Davis and Hancock.

A meeting of the Education Subcommittee of Jefferson County delegation was announced upon adjournment, March 1, 1974, Room 305A.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 724, by Representatives Siemens, Priddy, Adams, Blume, R. Brown, Crupper, Dietz, Donnermeyer, Freeman, Gay, Graves, Head, Isler, Kenton, Mann, McBee, McBrayer, Morgan, Romines, Van Horn, Watkins, Wible and Yates: AN ACT relating to collective bargaining for firemen.

HB 725, by Representative Overstreet: AN ACT relating to easements.

HB 726, by Representative Overstreet: AN ACT relating to choses in action.

HB 727, by Representative Robinson: AN ACT relating to Judicial Districts.

HB 728, by Representative Hellard: AN ACT relating to reporter's privilege.

HB 729, by Representative Hellard: AN ACT relating to logging.

HB 730, by Representative Harris: AN ACT relating to skilled nursing homes and intermediate care facilities.

HB 731, by Representatives Guenthner, Hughes, Dunn, Priddy and Yates: AN ACT relating to merger of school districts.

HB 732, by Representative Van Horn: AN ACT relating to the membership of the Kentucky State Board of Chiropractic Examiners.

HB 733, by Representative Siemens: AN ACT relating to license taxes.

HB 734, by Representative Swinford: AN ACT appropriating money out of the General Expenditure Fund in the State Treasury for the purpose of paying certain claims which have been duly audited and approved according to law but which have not been paid because of the lapsing or insufficiency of former appropriations against which said claims were chargeable.

HB 735, by Representative Kleier: AN ACT relating to fire prevention and protection; adoption of local standards of safety.

HB 736, by Representative Quickert: AN ACT relating to the appropriation of money out of the General Expenditure Fund of the State Treasury for the purpose of aiding Transit Authorities in the acquisition of mass transportation facilities.

HB 737, by Representative Whitfield: AN ACT relating to unauthorized use of food stamps.

HR 74, by Representative Gay: A RESOLUTION requesting the Kentucky Turnpike Authority and the Secretary of Transportation to obtain release of two landfill areas resulting from construction of Daniel Boone Parkway for public use as industrial and recreational areas.

HR 75, by Representative Swinford: A RESOLUTION directing the Legislative Research Commission, in consultation with the Superintendent of Public Instruction, to conduct a study of the laws relating to school textbook, depository, and treasurers' bonds.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Labor and Industry: **SB 91, SB 114, SB 124, HB 473, HB 477, HB 594, SR 16.**

Banking and Industry: **HB 704.**

Appropriations and Revenue: **HB 705, SB 179, HB 709, HB 436.**

Counties and Special Districts: **HB 607.**

Cities: **HB 671, HB 674, HB 675, HB 679, HB 681, HB 686, HB 699, HB 289, HB 634, SB 203, SB 226.**

Labor and Industry: **HB 664, HB 672.**

Judiciary: **HR 26, HB 426, HB 447.**

Report of Committees

The Committee on Cities reported **HB 487** with Committee Amendment attached thereto, **HB 501, HB 600, HB 601, HB 627** and **HR 63** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 487, AN ACT relating to first class cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) The fiscal court of any county is hereby authorized and empowered to exercise all the rights, powers, franchises, and privileges including the power to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted, which the fiscal court shall deem requisite for the health, education, safety, welfare, and convenience of the inhabitants of the county and for the effective administration of the county government to the same extent as if the General Assembly had expressly granted and delegated to the fiscal court all the authority that is within the power of the General Assembly to grant to the fiscal court of said counties.

(2) The county judge is hereby authorized and empowered to exercise all of the executive powers pursuant to subsection (1) of this section.

(3) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative thereto.

(4) *Any ordinance adopted by the fiscal court of any county pursuant to this section shall not be effective in any city of the first class within the county unless the legislative body of the city by ordinance adopts the county ordinance; provided, however, that the city may modify, change, or repeal the ordinance at any time. For purposes of enforcement, any county ordinance so adopted, shall be deemed to be a city ordinance.*

The Committee Amendment No. 2 to **HB 487** is as follows:

Amend printed copy of House Bill 487, page 2, line 8, by deleting the word "class" and inserting in lieu thereof "through fourth classes"

HB 501, AN ACT relating to cities of the fourth and fifth classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.750 is amended to read as follows:

(1) In cities of the fourth class the chief of police, his deputies, and every member of the police force shall, before entering upon the duties of his office, execute bond. The bonds of the chief of police and his deputies shall be in the sum of *not less than* \$2,500, and the bond of each member of the police force shall be in the sum of *not less than* \$1,000.

(2) In cities of the fifth class the chief of police and each member of the police force, before entering upon the duties of his office, shall execute bond. The bond of the chief of police shall be in the sum of *not less than* \$2,000, and the bond of each member of the police force in the sum of *not less than* \$1,000.

(3) These bonds in cities of the fourth and fifth classes shall run to the state, and shall be with good surety, approved by the city legislative body, except that in cities of the fourth class the bonds of the members of the police force shall be approved by the mayor. The bonds shall be conditioned for the faithful discharge of the duties of the office and for payment of all money received to the person entitled thereto. For any unlawful arrest, or unnecessary or cruel treating or assault in making an arrest, the principal and sureties shall be liable on their bond to the person injured.

HB 600, AN ACT relating to police and firemen's benefit fund in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.851 is amended to read as follows:

Words and phrases, used in KRS 95.851 to 95.885, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) "Fund" shall mean the "Policemen's and Firemen's Retirement Fund of the City of"

(b) "City" shall mean any city of the second class in the state of Kentucky, or city of the second class which may subsequently attain first-class status.

(c) "Department" shall mean the police department or the fire department of a city.

(d) "Board" shall mean the board of trustees provided for herein as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund.

(e) "Member" shall mean any member of the police or fire department who is included in the membership of the fund.

(f) "Service" shall mean actual employment in a department of a city for salary or compensation, or service otherwise creditable as herein provided.

(g) "Prior service" shall mean service rendered prior to the date of establishment.

(h) "Membership service" shall mean service rendered on or after the date of establishment.

(i) "Total service" shall mean prior service, membership service, and military service.

(j) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be three per cent (3%) per annum, compounded annually.

(k) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. *The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder.*

(l) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease.

(m) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member.

(n) The masculine pronoun, wherever used, shall include the feminine pronoun; also, widow shall include widower.

(o) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following.

(p) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely.

Section 2. KRS 95.856 is amended to read as follows:

Any member may, at his option, retire on a service retirement annuity upon or after *completing* [attainment of the age of 50 years, provided he shall have completed] at least 20 years of total service. Upon fulfillment of these terms, it is mandatory that the board shall grant the retirement annuity upon receipt of the application of said member.

Section 3. KRS 95.859 is amended to read as follows:

The rate of retirement annuity shall be two and one-half percent (2 1/2%) of average salary, as defined in KRS 95.851 (m), for each year of total service up to and including *thirty (30)* [twenty (20)] years, [one percent (1%) of average salary for each of the next five (5) years of total service, one-half percent (1/2%) of average salary for each year of total service after twenty-five (25) years,] subject to a maximum of *seventy-five percent (75%)* [(60%)] of average salary. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this Section shall receive a pension of less than one hundred dollars (\$100.00) a month and when social security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%). *Within six (6) months after the performance of the actuarial study required by KRS 95.872 (6), the rate of retirement annuity of each annuitant who becomes an annuitant after the effective date hereof shall be increased by an amount determined by the said study to reflect so much of the increase in the cost of living of such annuitant from the beginning of his annuity as may be supported on an actuarially sound basis by the fund, so long as the same is published, such studies shall rely on the "All Items Index" of the United States Department of Labor's Consumer Price Indexes, but no increase in the cost of living shall be assumed to exceed two per cent (2%) over the base index year in any year of the fund.*

Section 4. KRS 95.860 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to *sixty per cent (60%)* [fifty per cent (50%)] of the member's last rate of salary. This annuity shall be payable until she dies or remarries. In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive on account of each child, ten per cent (10%) of the member's last rate of salary until each child attains age eighteen (18) *or, in the case of a child regularly engaged in full-time educational activities, the age of twenty-three (23).* The combined payments to a widow and minor children shall not exceed seventy-five per cent (75%) of his final rate of salary.

(2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) *or between the ages of eighteen (18) and twenty-three (23) who are regularly engaged in educational activities* exist, each child shall be entitled to an annuity equal to fifteen per cent (15%) of the member's last rate of salary until each child attains age eighteen (18), *or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23)*, provided that the combined payments to such children shall not exceed fifty per cent (50%) of the member's last rate of salary.

(3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five per cent (25%) of the member's last rate of salary, or fifty per cent (50%) to both parents.

Section 5. KRS 95.861 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least *five (5) [ten (10)]* years of total service, his widow shall receive an annuity equal to one and one-half per cent (1 1/2%) of average salary for each year of total service, credited to the member, subject to the following conditions:

(a) The widow had been married to the member at least *six (6) months [one (1) year]* prior to his death;

[(b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;]

(b) [(c)] The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18), *or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23)*.

(2) If the widow has minor children under age of eighteen (18), *or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23)* the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment to the widow and children of *sixty percent (60%) [fifty per cent (50%) of]* the final rate of salary.

(3) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least *six (6) months [one (1) year]* before retirement.

Section 6. KRS 95.862 is amended to read as follows:

In the event a total and permanent occupational disability occurs, the member shall receive an annuity equal to *seventy-five per cent (75%) [sixty per cent (60%)]* of his last rate of salary. This benefit shall begin at such time as his salary may cease, and shall be paid during his entire lifetime. Upon his death, his eligible widow and minor children, if any, shall receive the benefits as provided under KRS 95.860.

Section 7. KRS 95.863 is amended to read as follows:

(1) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least *five (5) [ten (10)]* years of total service, he shall be entitled to a disability retirement annuity. The amount of such annuity shall be equal to two and one-half per cent (2 1/2%) of average salary, as defined in KRS 95.851 (m), for each full year of total service, subject to a minimum payment of twenty-five per cent (25%) of such average salary, and a maximum payment of *seventy-five per cent (75%) [fifty per cent (50%)]* of average salary. Payment of this annuity shall be made during disability of the member. Upon death of the member, if an eligible widow or minor children survive, such survivors shall be entitled to the regular annuities provided under KRS 95.861.

(2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from the date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

Section 8. KRS 95.866 is amended to read as follows:

(1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member after the date of establishment, without interest.

(2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(3) Any member who has received a refund shall be considered a new member upon subsequent re-employment if such person qualifies for membership under the provisions hereof. After the completion of

at least five (5) years of continuous membership service following his latest re-employment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six per cent (6%) interest from the dates of refund to the date of repayment. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

(4) Any member who has received, or who is entitled to receive, a refund, but who within six months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another city of the second class, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions and service under his original fund.

Section 9. KRS 95.867 is amended to read as follows:

Each active member shall contribute a sum equal to *eight per cent (8%)* [six per cent (6%)] of current salary. The director of finance of the city is hereby authorized to deduct such amount from the salary of each active member in semimonthly instalments. This contribution shall be made as deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for the services rendered by such member during the period covered by such payment, except as to the benefits herein provided.

Section 10. KRS 95.868 is amended to read as follows:

The city shall make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(1) An annual amount resulting from the application of a rate per cent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one (1) year term premium for the city's liability for death benefits, after applying the contributions by the active members. Such rate per cent shall be fixed by the board every five (5) years after an actuarial survey of the fund *as required by KRS 95.872(6)*, and shall be in effect for a period of at least five (5) years. For the first five (5) fiscal years of operation of the fund, the city's rate of contribution shall be at least twelve per cent (12%) of the salaries of the active members participating in the fund.

(2) An amount resulting from the application of a rate per cent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the circuit court of any county in which the city is located, an injunction or mandamus requiring the government to comply herewith; and the members of any legislative body failing so to act shall be personally liable for any funds not paid to the fund as required hereby, which remedy shall be available to any member of the fund or to any annuitant.

Section 11. KRS 95.869 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of six (6) members, consisting of: (a) the mayor ex officio; (b) the city treasurer ex officio; (c) the chiefs of the police and fire departments ex officio; and (d) *two (2)* [one (1)] active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for *alternating terms of two (2)* [one (1)] years under rules adopted by the board. *One of the active members representing each department shall be elected on even-numbered years, and the other active member representing the department shall be elected on odd-numbered years.* In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) *It is the intention of this section that the one elected member from each department on the pension board serving immediately prior to the effective date of this act shall retain his office for one year and that the other elected member from each department shall be elected for a two-year term.* [KRS 95.851 to 95.885 that the present elected members of the pension board shall continue in office as members of the board of trustees herein provided, shall succeed to the office of trustee under the provisions hereof and shall assume the duties and obligations as herein provided. Such members shall continue in office until the expiration of their respective terms of office when elections shall be held for successors as herein provided.]

Section 12. KRS 95.870 is amended to read as follows:

(1) Subject to the foregoing provisions, there shall be held on the first Wednesday after the first Tuesday of September of each year an election among the active members for trustee of the fund.

(2) On or before August 10 preceding, nominations for candidates in the election shall be filed with the chief of the police department and the chief of the fire department. The nominations shall be in writing and

shall be signed by not less than twenty-five per cent (25%) of the members. Within five (5) days after the close of nominations, the chiefs of the respective departments shall certify in writing to all districts and bureaus of the departments the names of those placed in nomination.

(3) On the first Wednesday after the first Tuesday in September beginning at the hour of 12 noon on Wednesday and continuing thereafter for a *forty-eight (48)* [twenty-four (24)] hour period, an election shall be held under the supervision of the commanding officers of the districts and bureaus. Each member shall vote at the district or bureau of which he is a member, except those members who are not assigned to a specific district or bureau, who shall vote at the office of the chief of police or chief of the fire department, as the case may be. At the close of voting, the commanding officer of each district or bureau, shall in the presence of the nominees or their duly authorized agents, open the ballot box and count the votes. He shall then make a certificate of the count and send the certificate with the ballots in a sealed envelope to the mayor, who shall, on the following Wednesday, open all the certificates so received and after counting all the returns, certify the result to the board. On the third Wednesday after the first Tuesday in September the candidate or candidates receiving the most votes shall assume office.

Section 13. KRS 95.872 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board, shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The city treasurer shall be ex officio treasurer of the board, and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The city treasurer shall, within ten (10) days after his *selection* [election] execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and *will* [well and] truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund, *except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the city.*

(5) The director of law of the city shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, *except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the city.*

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. *Within six (6) months after the establishment, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every five (5) years thereafter, an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 95.859. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the city is located.*

(7) The board shall establish rules and regulations to implement the provisions of KRS 95.851 to 95.885 which shall not be inconsistent therewith.

Section 14. KRS 95.873 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, *urban county government* or city of the first, second, or third class in this state, or in any securities in which trustees are permitted to invest trust funds under the laws of this state. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the treasurer and shall be subject to the order of the board. *The board may, at the cost of the city, employ or engage consultants to provide investment advice to aid the board in its determinations.*

Section 15. KRS 95.876 is amended to read as follows:

(1) *It is the intention of KRS 95.851 to 95.885 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.520 to 95.620 inclusive, which sections shall thereafter be without force and effect, in so far as applicable to cities of the second class, but said sections shall remain in full force and effect as relates to the cities of the third class.*

(2) *The fund created by KRS 95.851 to 95.885 shall succeed to and assume as of July 1, 1974, all assets of such pension fund, of every kind and character whatsoever, including cash, securities, receivables, accruals. Such transfer of assets shall be made as soon as possible or practicable following the adoption of KRS 95.851 to 95.885. The fund created by KRS 95.851 to 95.885 shall assume as of July 1, 1974, all liabilities and obligations, annuities, pensions, and benefits previously granted and in force under the provisions of the laws of Kentucky.*

(3) *The fund created by KRS 95.851 to 95.885 shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect.*

Section 16. KRS 95.881 is amended to read as follows:

Any city covered by KRS 95.851 to 95.885, which may subsequently change its form of government, its class, or other status [attain a first-class status,] shall continue to be covered by KRS 95.851 to 95.885.

Section 17. KRS 95.885 is amended to read as follows:

Any person who knowingly makes any false statement, or falsifies, or permits to be falsified, any record or records of this fund, in any attempt to defraud the fund, is guilty of a misdemeanor, and shall be fined not less than \$500 or imprisoned in the county jail not less than twelve (12) months, or both, [punishable therefor under the laws of the state of Kentucky,] and the fund shall have the right to recover any payments made under false representations.

Section 18. KRS 95.857 is repealed.

HB 601, AN ACT relating to regularly paid fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS 95 is created to read as follows:

No firefighter of a regularly paid fire department shall engage in new construction, remodeling or general maintenance work on any fire house, city building or property while on a tour of duty. The pay rank or benefits of any member or officer shall not be reduced as a result of a refusal to perform such construction, or maintenance work. Nothing herein shall be so construed as to relieve firemen from performing general housekeeping duties at their assigned fire house; if such duties do not interfere with firefighting.

HB 627, AN ACT relating to Planning and Zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Board" means the board of adjustments unless the context indicates otherwise;

(3) "Citizen member" means any member of the planning commission or board of adjustments who is not an elected or appointed official or employee of the city or county;

- (4) "Commission" means planning commission;
- (5) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;
- (6) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;
 - (a) A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and
 - (b) A statement of the specific conditions which must be met in order for the use to be permitted.
- (7) "Dimensional variance" means a departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship;
- (8) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;
- (9) "Housing or building regulation" means any regulation incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation;
- (10) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;
- (11) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor, chairman of the board of trustees, or otherwise;
- (12) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;
- (13) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;
- (14) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;
- (15) "Plat" means the map of a subdivision;
- (16) "Political subdivision" means any city or county;
- (17) "Regulation" means any enactment by the legislative body of a city or county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the planning commission;
- (18) "Several" means two or more;
- (19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;
- (20) "Street" means any vehicular way;
- (21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;
- (22) "Subdivision" means the division of a parcel of land into *three (3)* [two (2)] or more lots or parcels for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; providing that a division of land for agricultural purposes into lots of parcels of five (5) acres, or more and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided;
- (23) "Unit" means planning unit.

HR 63, A RESOLUTION requesting and directing the Department for Natural Resources and Environmental Protection and the Department for Human Resources to use their facilities to alleviate the hazards to health and safety of all citizens of Ludlow-Bromley area created by the filling of the Lagoon.

WHEREAS, on February 1, 1974, the Citizens Committee of the House of Representatives out of a deep concern for the citizens visited the Lagoon area of Ludlow-Bromley, Kentucky to gain a greater knowledge of the conditions created by the filling of the Lagoon; and

WHEREAS, the Cities Committee found that Ludlow Development Enterprises, Inc. was responsible for the filling of the Lagoon and was not carrying it out in accordance with the terms of the permit issued by the Department for Natural Resources and Environmental Protection; and

WHEREAS, the failure to live up to the terms and conditions of the permit have created hazards to health and safety by the diversion of drainage water;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Department for Natural Resources and Environmental Protection withdraw the permit so issued to Ludlow Development Enterprises, Inc. until such a time that all conditions are met so as to insure the safety and health of all citizens of the Commonwealth, and that the Department for Human Resources issue such orders and directions as is necessary to insure a health environment for the citizens.

The Committee on State Government reported **HB 366** without expression of opinion.

The Committee on State Government reported **HB 560, HR 27, HR 32, HJR 44, HJR 53, HCR 62, SB 86** with Committee Substitute attached thereto, and **SB 119** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 560, AN ACT relating to the Kentucky Pollution Abatement Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.020 is amended to read as follows:

As used in this chapter, the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Assistance agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a state grant or grants to the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(2) "Authority" shall mean the Kentucky Pollution Abatement Authority, which is created by this chapter.

(3) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, and operate waste water treatment facilities, as hereinafter defined, and such definition shall specifically apply, but not by way of limitation, to incorporated cities, *counties, including any counties containing a metropolitan sewer district*, sanitation districts, water districts, sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing such described powers.

(4) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(5) "State" means the Commonwealth of Kentucky.

(6) "State water pollution agency" means the Kentucky *Department For Natural Resources and Environmental Protection* [Water Pollution Control Commission of the Department of Health], or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the Federal Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948), as said federal act has been amended by subsequent Acts of Congress, *including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972)*, and as said federal act may be amended from time to time in the future.

(7) "Federal act" means the Federal Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948) as said federal act has been amended by subsequent Acts of Congress, *including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972)*, and as said federal act may be amended from time to time in the future.

(8) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(9) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(10) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of such waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(11) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, *including heat and radioactivity*, together with such sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Waste water" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of such waters.

(14) "Treatment works" or "waste water treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of waste water, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of waste water, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any waste water treatment works, including site acquisition of the land that will be an integral part of the waste water treatment process, or is used for ultimate disposal of residues resulting from such treatment, *together with any other facilities which are deemed to be treatment works pursuant to the Federal Act*.

(15) "Construction" means and includes, inter alia, (a) preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of treatment works; (b) the erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works; and (c) the inspection and supervision of the construction of treatment works, and all costs incidental to the acquisition and financing of same; and such term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, treatment works which shall in futuro become eligible for federal grant participation.

(16) "Eligible project" means any construction of treatment works instituted by a governmental agency which is approved by the authority, and the State Water Pollution Agency[, and for which there is, or will be available, a federal grant].

(17) "Federal grant" means money which is made available to any governmental agency or to the authority or the State Water Pollution Agency pursuant to the provisions of any federal law, which money is made available for the purpose of assisting such governmental agency, either directly or through allocation by the state, in the acquisition or construction of treatment works.

(18) "Service charge" means any monthly, quarterly, semi-annual, or annual charges to be imposed by a governmental agency, or by the authority, for the collection, treatment, and disposal of pollutants, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. *Said term shall also mean any moneys and funds agreed to be paid on an annual automatically renewable basis by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an Assistant Agreement.*

(19) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

(20) "State grant" or "state grants" means moneys to be made available to governmental agencies by the authority for the purpose of defraying *all or any part of the total* costs incidental to construction of treatment works which constitute the subject matter of any eligible project.

(21) "Authority revenues" means the totality of all (a) service charges, (b) water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority, (c) any gifts or grants received from any agency of government, both federal and state, to the extent not otherwise required to be applied, (d) any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority, and (e) all moneys received in repayment of and for interest on, any state grant made by the authority to a governmental agency.

(22) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues.

(23) "General obligation bonds" means bonds issued by the state for the use and benefit of the authority, and to provide funds for authority purposes, secured by the full faith, credit, and unlimited taxing power of the state, which bonds have been properly voted at one or more elections, held in accordance with the requirements of Sections 49 and 50 of the Constitution of the Commonwealth of Kentucky.

(24) "Applicable interest rate" means the net average rate of interest which is established as a result of the sale of authority revenue bonds upon the occasion of the sale of authority revenue bonds last occurring before the execution of any particular assistance agreement, *or occurring after the execution of any Assistance Agreement and contemplated thereby*, which shall be used as a part of the repayment criteria of the governmental agency which is a party of such assistance agreement.

Section 2. KRS 224A.020 is amended to read as follows;

The General Assembly of the Commonwealth of Kentucky finds as a fact that the polluting and befouling of the waters of the state has harmed, and is presently harming and injuring, the state's abundant water resources, and, if unabated, will continue to harm such state water resources, and will endanger the health, safety, welfare and well-being of the general public, and the ability of the Commonwealth of Kentucky to provide essential governmental services for the benefit of the public, and that such situation, if allowed to continue unchecked, will destroy the natural chemical, physical, and biological integrity of the waters of the state. It is hereby found and determined to be essential to the preservation of the natural water resources, economic potential, and general well-being of the Commonwealth that, to the maximum and greatest extent possible, the Commonwealth of Kentucky should and must actively engage in a program of assistance to governmental agencies whereby waste water treatment works may be provided to abate the devastation and destruction to the state's water resources, and the health menace to the general public, caused and occasioned by the pollution of the waters of the state. [The General Assembly of the Commonwealth of Kentucky further finds as a legislative determination of fact that the abatement of waste water pollution is a national, as well as a state problem, and recognizes that existing federal law providing for grants-in-aid for waste water treatment works provides that in order to obtain the maximum federal grant participation, a state must also furnish such aid, and that without state aid, governmental agencies undertaking construction of waste water treatment works in the Commonwealth of Kentucky must provide a greater proportion of the necessary costs therefor than would otherwise be the case if state aid is furnished, thus imposing greater financial burdens on the citizens of the Commonwealth.]

Section 3. KRS 224A.040 is amended to read as follows:

The authority is specifically authorized, pursuant to the terms, conditions, restrictions and requirements of this chapter to make state grants as funds are available, to any governmental agency to assist said governmental agency to carry out the construction of waste water treatment works which will constitute and be an eligible project. [It is the intent of this chapter that state grants shall be made by the authority to governmental agencies in such manner as to maximize the total amounts of federal grant participation received, or to be received, for all eligible projects instituted by governmental agencies within the Commonwealth of Kentucky.]

Section 4. KRS 224A.080 is amended to read as follows:

All governmental agencies shall have and possess, in addition to all other powers now or hereafter vested in them, the following powers:

- (1) To undertake eligible projects;
- (2) To make application for, and to receive, federal grants in aid of eligible projects in accordance with the provisions of any federal laws now in effect, or in effect in the future;
- (3) To make application for, and to receive, state grants in accordance with the terms and provisions of this chapter;
- (4) To comply with rules, regulations, and bylaws promulgated by the authority with respect to state grants;

- (5) To enter into assistance agreements with the authority;
- (6) To comply with all terms, conditions and requirements of any assistance agreement pursuant to which a state grant is to be received from the authority;
- (7) To covenant with the authority to, and to impose, service charges upon all persons to whom sewer services are provided by the construction of eligible projects. Such service charges shall, as appropriate in the individual cases and circumstances, be in addition to all other rates, rentals, and charges of a similar nature now or hereafter authorized by law and now or hereafter being levied and collected by such governmental agencies. *Counties and urban county governments, including counties containing Metropolitan Sewer Districts, shall have the right to covenant with the Authority to pay to the Authority on an annual, automatically renewable basis, such moneys and funds pursuant to an Assistant Agreement as shall enable the Authority to amortize revenue bonds issued to provide eligible projects to such counties and urban county governments, subject to Constitutional provisions;*
- (8) To covenant with the authority to mandatorily require the use of sanitary sewers by all persons owning, renting, or occupying premises generating pollution, where sewer service is reasonably available to such premises, and to exhaust all remedies for the collection of service charges, including termination of water service to delinquent sewer customers; and to promptly remit all service charges collected to the authority in accordance with the terms, conditions, and requirements of assistance agreements.

Section 5. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with eligible projects. Each such assistance agreement shall be subject to approval by the State Water Pollution Agency, may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

- (1) An estimate of the reasonable cost of the eligible project, as determined by the authority;
- (2) The amount of state grants to be made to the governmental agency;
- (3) The time or times at which such state grants shall become payable to the governmental agency;
- (4) The specific purpose or purposes for which the proceeds of state grants made pursuant to the assistance agreement shall be expended;
- (5) The conditions under which state grants may be expended on account of the eligible project by the governmental agency;
- (6) An agreement by the governmental agency:
 - (a) To proceed expeditiously with and promptly complete the eligible project *or cause same to be completed* in accordance with plans and specifications approved by federal and state regulatory agencies;
 - (b) To commence *or cause to be commenced* operation of the eligible project on completion of construction, and not to discontinue operations or dispose of such eligible project without the approval of the authority and the State Water Pollution Agency;
 - (c) To operate and maintain *or cause to be operated and maintained* the eligible project in accordance with the applicable provisions of federal and state law;
 - (d) To *cooperate fully with* [secure approval of] the authority and the State Water Pollution Agency before applying for federal assistance for pollution abatement, *if any* [in order to maximize the amounts of such federal assistance received or to be received for all eligible projects in the Commonwealth of Kentucky;]
 - (e) To provide for the payment of the governmental agency's share of the cost of the eligible project, *if the entire eligible project is not financed by a state grant* and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, *if any*;
- (7) A provision that in the event federal grant assistance which was not included in the calculation of the state grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the state grant shall be recalculated with the inclusion of such additional federal assistance, and the governmental agency shall pay to the authority the amount, if any, by which the state grant actually made, exceeds the state grant payment as determined by the recalculation;
- (8) The extent to which the state grant shall be repaid to the authority, which shall not be less than the sum of the following:
 - (a) The aggregate principal amount of the state grant; and
 - (b) Interest on the aggregate balance of the principal amount of the state grant from time to time remaining unpaid, computed at the applicable interest rate, plus *not to exceed* 1/4 of 1%.
- (9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;
- (10) The extent to which a service charge shall be imposed by the governmental agency. Any such service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section;
- (11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment

schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid (with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky) as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the rate of six per cent (6%) per annum, shall have been paid.

Section 6. A new section of KRS Chapter 244A is created to read as follows:

The Authority shall be authorized and empowered in connection with the issuance of its revenue bonds and notes for the accomplishment of its public purposes pursuant to this chapter, to establish in respect of such revenue bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the Board of the Authority in order to enable the Authority to effectuate its proper public purposes, and to issue such revenue bonds and notes in the most advantageous manner. In the event any such reserve fund or replacement fund created by the Authority in connection with any such revenue bond issue or note issue should, in violation of any contract made by the Authority with any bond holder or note holder be monetarily deficient in any respect as of any date of accounting so stipulated by the Authority, the Authority shall immediately make formal request in writing to the Commissioner of the Executive Department for Finance and Administration, and to the Governor of Kentucky, that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding revenue bonds and notes of the Authority be included in the next succeeding executive budget, and that such budget request be presented to the General Assembly of Kentucky with recommendation for approval by the General Assembly for payment to the Authority for the use and benefit of such reserve fund or replacement fund. In the event the next regularly scheduled session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the Authority, the Authority shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the Authority be made available from the Governor's Contingency Fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

HR 27, A RESOLUTION petitioning the United States Congress to amend the Uniform Time Act of 1966.

WHEREAS, the provisions of the Federal Uniform Time Act of 1966 apply to Kentucky, lying on the western edge of the eastern time zone; and

WHEREAS, the annual change to summer daylight saving time has caused hardship in Kentucky falling most strongly on the Eastern half of the Commonwealth during the months of May and October,

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) That the United States Congress is hereby petitioned to amend the Uniform Time Act of 1966 (Public Law 89-387) so that summer daylight saving time will prevail in Kentucky after the expiration of the Emergency Daylight Saving Time Energy Conservation Act of 1973 from 2 a.m. on the last Monday in May until 2 a.m., September 30, of each year.

(2) That a copy of this resolution be sent to the clerks of the Senate and the House of Representatives of the Congress of the United States and to the two Senators and all the members of the House of Representatives who represent Kentucky in the Congress of the United States.

HR 32, A RESOLUTION commending units and members of the 100th Division (Training), United States Army Reserve, for distinguished service to the Nation and the Commonwealth.

WHEREAS, many native Kentuckians have proudly served the Nation and our Commonwealth in times of peace and of crisis as members of the 100th Division, formerly the 100th Infantry Division; and

WHEREAS, members of the Century Division answered the call to active duty and distinguished themselves in their outstanding performance of duty during the Berlin call-up of 1961; and

WHEREAS, the 100th Division, one of 13 training divisions allocated to the United States Army Reserve in the Continental United States Army Command, has consistently been recognized as one of the best trained and ready training divisions; and

WHEREAS, as we proceed into a peacetime role, the active Army is steadily being reduced and Army Reserve personnel are attaining more importance in supporting the Nation's defense posture; and

WHEREAS, the 100th Division has supplied administrative and manpower support in many programs of community relations and domestic actions involving community relationships and ecology throughout Kentucky; and

WHEREAS, the 100th Division has pioneered in instructing schools and civic groups in the proper handling, display and courtesies to our national flag, thus helping make better citizens and Americans; and

WHEREAS, the 100th Division has provided leadership training and instruction in military tactics for the Reserve Officers Training Corps of the Universities of Kentucky and Louisville, Eastern Kentucky University, Western Kentucky University, Morehead State University and Murray State University, to improve the quality of prospective young officers; and

WHEREAS, the 100th Division has provided general support and management assistance to the Scouting program, with emphasis on respect for and the safe handling of firearms, as well as leadership training in duty, honor and country; and

WHEREAS, the 100th Division has organized and supported the American Red Cross blood donor drives throughout the Commonwealth to provide vitally-needed blood to sustain the lives of our citizens; and

WHEREAS, the 100th Division has provided many hours of instruction and training in the new, future Olympic sport, "team handball," to many young citizens in high schools and civic organizations to assist in improving physical conditioning and sportsmanship; and

WHEREAS, the 100th Division has labored many hours in providing guidance to both young and old in the area of drug abuse and has sponsored showings of the film, "The Trip Back," throughout the Commonwealth in an effort to combat one of our biggest social problems; and

WHEREAS, the 100th Division is a trained team, standing ready to render assistance on order in the control of civil disorders and disturbances, and to help our citizens in the event of natural disasters; and

WHEREAS, the 100th Division will have the unique opportunity to become involved with projects which will enhance the future of our state and be of lasting benefit to the Army Reserve program during Kentucky's Bicentennial Celebration;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Commonwealth of Kentucky commends the citizen soldiers of the 100th Division (Trg) for their distinguished service to our state and our Nation, and that April is hereby recognized as Army Community Month in Kentucky.

HR 44, A JOINT RESOLUTION requesting the University of Kentucky and the University of Louisville to schedule football and basketball games with each other annually.

WHEREAS, the football and basketball teams of the University of Kentucky and the University of Louisville have many years attained national prominence because of their outstanding records in competition in both football and basketball; and further

WHEREAS, the teams of these schools do not play each other on regular schedules, and it appearing that the citizens of this Commonwealth strongly desire that competition between the two schools should become an annual meeting, or meetings, in both football and basketball;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That the Athletic Department of the University of Kentucky and that of the University of Louisville immediately begin negotiations which will lead to the scheduling of each other annually. Said games are to be scheduled and held in football not later than January 1, 1976, and in basketball not later than the 1975-1976 season.

HR 53, A JOINT RESOLUTION on retirement benefits for public employees.

WHEREAS, there is increasing interest and concern with the problems of retirement; and

WHEREAS, the results of a recent study conducted by the Legislative Research Commission reveals that much care must be exercised when making changes to a retirement program; and

WHEREAS, the Congress is continuing to review and evaluate the retirement programs for both public and private employe pension plans; and

WHEREAS, reciprocal arrangements among and between all state administered retirement systems are desirable on the part of both public employes and public employers; and

WHEREAS, inflation of recent years has created great difficulties among the ranks of retired persons in their efforts to maintain a reasonable standard of living; and

WHEREAS, retirement is a vital part of fringe benefits for all public employes throughout the Commonwealth a full and complete examination and study of the existing retirement systems for public employes is desirable,

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is authorized and directed to conduct a comprehensive study and evaluation of the existing retirement organizations and benefits for all county, municipal and political subdivision employes, state employes, public school teachers and employes of all State colleges and universities.

Section 2. The study shall include but not be restricted to the following: analysis of each service retirement program including the member and employer contribution; analysis of death benefits, including group insurance now provided by the State and other public employers; disability and survivor benefit programs and any other benefits provided by a public employer; analysis of possible reciprocity among the public retirement programs; evaluation of a cost-of-living adjustment plan for all public retired employes; evaluation of the possibility of extending social security coverage for public school teachers; and analysis of State's obligation to provide funds for prior service obligation.

Section 3. The study shall develop plans for the most effective and efficient organization for the administration of the benefit programs available to the various employe groups covered by the several publicly supported retirement plans which are as follows:

(1) Those administered by the Kentucky Retirement Systems Board of Trustees:

(a) Kentucky Employes Retirement System;

(b) County Employes Retirement System;

(c) State Police Retirement System.

(2) The system administered by the Teachers' Retirement System Board of Trustees: Teachers' Retirement System.

(3) The system administered by the Judicial Retirement System Board of Trustees: Judicial Retirement System.

(4) Those plans not administered by a statewide board of trustees.

Section 4. To assist the Legislative Research Commission in conducting this study and evaluation as directed above, an advisory committee shall be appointed comprised of two members of the Senate, appointed by the President thereof; two members of the House, appointed by the Speaker; the Executive Secretary of the Teachers' Retirement System of the State of Kentucky; the General Manager of the Kentucky Retirement Systems; the Commissioner for Finance and Administration or his designate; the Superintendent of Public Instruction or his designate; the President of the Kentucky School Boards Association or his designate; the Executive Director of the Council on Public Higher Education; two members to be appointed by the Board of Trustees of the Teachers' Retirement System; three members of the Kentucky Retirement Systems to be appointed by the Board of Trustees of those Systems; and one member to be appointed by the Trustees of the Judicial Retirement System. The Legislative Research Commission shall appoint an actuarial firm which shall not be under contract to any of the boards involved to aid the advisory committee.

Section 5. The committee shall complete the study and report its findings by July 1, 1975.

Section 6. The cost of the study directed under this Resolution shall be jointly and equally borne by the Kentucky Retirement Systems and the Teachers' Retirement System. Billings by the Legislative Research Commission for the study shall be paid after approval by the Boards of Trustees of the respective retirement systems. The Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the Teachers' Retirement System are hereby authorized to expend funds for the purposes of this Resolution.

HR 62, A CONCURRENT RESOLUTION relating to Zollicoffer Park, the site of the Battle of Mill Springs.

WHEREAS, the Battle of Mill Springs was fought one hundred and twelve years ago as of January 19, 1974, and was the first decisive and significant battle of the War Between the States and was the turning point of that war; and

WHEREAS, on that spot, General Felix K. Zollicoffer, soldier of the Confederate Army, fell while engaged in mortal combat, and was the first general officer to fall in the Civil War; and

WHEREAS, Lieutenants Bailey Peyton, Jr., and H. M. R. Pogg and more than one hundred and fifty of their Confederate associates in the Battle of Fishing Creek, fell also with General Zollicoffer for right as they saw it; and

WHEREAS, all the aforementioned are a part of that great host who crowned southern manhood with glorious immortality and gave their lives, the noblest of all offerings, as duty called; and

WHEREAS, history will ever point in reverence and pride to the sacred place where those heroes so peacefully sleep; and

WHEREAS, they now rest beneath a mound in a sleep that knows no awakening, one hundred and fifty strong, together in eternal rest as they were in battle, all valiant soldiers of the Confederacy from Alabama, Mississippi and Tennessee; and

WHEREAS, mankind knows not who they were, but rather the whole world knows what they were, an intrepid band of brave men in the glory and splendor of their youth, who died far from home and loved ones, but who fill heroes' graves about which the aura of glory eternally shines; and

WHEREAS, that mound where the flower of southern manhood rests is devoid of any marker, identification, crude stone or polished marble shaft to purport to the world their dedication, their honor, their valor, their glory, and their supreme sacrifice; and

WHEREAS, for one hundred and twelve years those noble men have slept in a common grave with naught but the angels of mercy to weep for them; and

WHEREAS, the eternal stars in their silent orbits keep constant vigil, the angels of heaven look down and weep and Almighty God watches over these men, yet mortal man has not raised a hand to recognize, honor, or respect that hallowed spot; and

WHEREAS, on the other hand, nearby, the Mill Springs National Cemetery is enclosed behind stone walls and iron fences, and behind this enclosure are polished stones of marble and granite, flowers, shrubs and vines entwined, winding paths, open vistas and shade trees planted; and a caretaker on hand to constantly do the watch;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Governor of the Commonwealth of Kentucky is hereby authorized to appoint a committee to make recommendations to the Chief Executive as to what appropriate and official action should be taken to officially recognize, care for, and preserve that historical site.

SB 86, AN ACT relating to actions against the Commonwealth of Kentucky arising out of its contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.270 is amended to read as follows:

(1) Any person, firm or corporation, having entered into a lawfully authorized written contract with the commonwealth after *the effective date of this Act*, [June 16, 1966,] may bring an action against the commonwealth on a claim for enforcement of contract or on a claim for breach of contract in the Franklin Circuit Court[, provided, however, that all available remedies under any regulation of the contracting agency or under any clauses in the contract shall first be exhausted]. Any such action shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the commonwealth.

(2) Recovery on a claim for breach of contract shall not exceed an amount equal to the original amount of the contract, exclusive of any additions by means of change order or other adjustment, between the claimant and the commonwealth. Recovery on a claim for enforcement of contract shall not exceed the total

amount remaining to be paid under the terms of the original contract between the claimant and the commonwealth, including any additions by change order or other adjustment, so that the total liability of the commonwealth, including any amount necessary to satisfy any claim for enforcement of the contract, is limited by the amount established for the contract.

Section 2. KRS 44.280 is amended to read as follows:

[If a hearing by the contracting agency is held, and a record thereof is made, the final disposition of the claim by the agency may be appealed to the Franklin Circuit Court. On appeal no new evidence may be introduced except as to fraud or misconduct of some person engaged in the hearing before the contracting agency. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal before it in a summary manner, being limited to determining: whether or not the contracting agency acted without or in excess of its powers; the decision was procured by fraud; the decision is not in conformity to law, and whether the findings of fact support the decision of the contracting agency.] The court shall enter its findings as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil cases *subject to the provisions of KRS 44.330*.

Section 3. KRS 44.300 is amended to read as follows:

Appeals may be taken to the Court of Appeals from Franklin Circuit Court under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by circuit courts. [The Court of Appeals shall review only the matters subject to review by Franklin Circuit Court.]

Section 4. KRS 44.310 is amended to read as follows:

[If a contracting agency has provided for hearings or other administrative remedies for resolving claims for enforcement of contracts or for breach of contracts, such claims shall be presented to the agency within one (1) year after they have accrued.] Any such claim shall be commenced in Franklin Circuit Court within one (1) year after the claim accrues [or within ninety (90) days after a final adverse agency decision made pursuant to a regulation or clause in the contract, whichever occurs later].

Section 5. KRS 44.330 is amended to read as follows:

(1) Each agency which has had an award or judgment against it upon a claim filed pursuant to KRS 44.260 to 44.330 shall furnish a certified copy of the award or judgment to the *Executive Department for Finance and Administration* [of finance]. *All awards and judgments not in excess of five hundred thousand dollars against the Bureau of Highways, Department of Transportation, shall be paid out of the state road fund, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer. All awards and judgments not in excess of five hundred thousand dollars against other departments or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such department or agency, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer. All awards and judgments not in excess of five hundred thousand dollars against all other departments and agencies of the state shall be paid out of the general fund, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer.*

(2) The *Executive Department for Finance and Administration* [of finance] shall request an appropriation from the next regular session of the General Assembly for the purpose of satisfying all such awards and judgments during the preceding two fiscal years *which are not satisfied under subsection (1) of this section*.

Section 6. A new section of Chapter 45 of the Kentucky Revised Statutes is created to read as follows:

Any Kentucky court judgment against the Commonwealth awarding damages up to five hundred thousand dollars for breach of contract or enforcement of contract shall be a necessary governmental expense and payment shall be approved by the Executive Department for Finance and Administration and paid by the State Treasurer. Appropriations for these judgments shall be continued appropriations.

Section 7. KRS 44.290 is hereby repealed.

The Committee Substitute to **SB 86** is as follows:

SB 86, AN ACT relating to actions against the Commonwealth of Kentucky arising out of its contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.260 is amended to read as follows:

As used in KRS 44.260 to 44.330, unless the context requires otherwise:

[(1) "Claim for breach of contract" means a claim for damages arising out of a contract with the commonwealth and for which there is not a clause in the contract providing in terms for payment of such

claim.]

[(2) "Claim for enforcement of contract" means a claim arising out of a contract with the commonwealth for payment of money or adjustment of contract price pursuant to a clause in the contract providing in terms for such payment or adjustment.]

[(1)][(3)] "Commonwealth" means the commonwealth of Kentucky and any of its departments or agencies.

[(2)][(4)] "Contracting agency" means any department or agency of the commonwealth of Kentucky having entered into a lawfully authorized written contract.

Section 2. KRS 44.270 is amended to read as follows:

(1) Any person, firm or corporation, having [entered into] a lawfully authorized written contract with the commonwealth *at the time of or after the effective date of this Act* [June 16, 1966], may bring an action against the commonwealth on the contract [a claim for enforcement of contract or on a claim for breach of contract] in the Franklin Circuit Court[, provided, however, that all available remedies under any regulation of the contracting agency or under any clauses in the contract shall first be exhausted]. Any such action shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the commonwealth.

(2) *If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.*

[(2) Recovery on a claim for breach of contract shall not exceed an amount equal to the original amount of the contract, exclusive of any additions by means of change order or other adjustment, between the claimant and the commonwealth. Recovery on a claim for enforcement of contract shall not exceed the total amount remaining to be paid under the terms of the original contract between the claimant and the commonwealth, including any additions by change order or other adjustment, so that the total liability of the commonwealth, including any amount necessary to satisfy any claim for enforcement of the contract, is limited by the amount established for the contract.]

Section 3. KRS 44.280 is amended to read as follows:

[If a hearing by the contracting agency is held, and a record thereof is made, the final disposition of the claim by the agency may be appealed to the Franklin Circuit Court. On appeal no new evidence may be introduced except as to fraud or misconduct of some person engaged in the hearing before the contracting agency. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal before it in a summary manner, being limited to determining: whether or not the contracting agency acted without or in excess of its powers; the decision was procured by fraud; the decision is not in conformity to law, and whether the findings of fact support the decision of the contracting agency.] The court shall enter its findings as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil cases *subject to the provisions of KRS 44.330.*

Section 4. KRS 44.300 is amended to read as follows:

Appeals may be taken to the Court of Appeals from Franklin Circuit Court under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by circuit courts. [The Court of Appeals shall review only the matters subject to review by Franklin Circuit Court.]

Section 5. KRS 44.310 is amended to read as follows:

[If a contracting agency has provided for hearings or other administrative remedies for resolving claims for enforcement of contracts or for breach of contracts, such claims shall be presented to the agency within one (1) year after they have accrued.] Any such claim shall be commenced in Franklin Circuit Court within one (1) year *from the date of completion specified in the contract* [after the claim accrues or within ninety (90) days after a final adverse agency decision made pursuant to a regulation or clause in the contract, whichever occurs later].

Section 6. KRS 44.330 is amended to read as follows:

(1) Each agency which has had an award or judgment against it upon a claim filed pursuant to KRS 44.260 to 44.330 shall furnish a certified copy of the award or judgment to the *Executive D[d]epartment for Finance and Administration[of finance]. The first five hundred thousand dollars of any award or judgment against the Bureau of Highways, Department of Transportation, shall be paid out of the state road fund, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer. The first five hundred thousand dollars of any award or judgment against other departments or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such department or agency, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer. The first five hundred thousand dollars of any award or judgment against all other departments and agencies of the state shall be paid out of the general fund, upon warrants drawn by the Commissioner for Finance and Administration upon the State Treasurer.*

(2) The *Executive D[d]epartment for Finance and Administration [of finance]* shall request an appropriation from the next regular session of the general assembly for the purpose of satisfying all such

awards and judgments granted during the preceding two (2) fiscal years *which are not satisfied under subsection (1) of this section.*

Section 7. A new section of Chapter 45 of the Kentucky Revised Statutes is created to read as follows:

The first five hundred thousand dollars of any Kentucky court judgment against the Commonwealth awarding damages on a contract claim under the provisions of KRS 44.260 to KRS 44.330 shall be a necessary governmental expense and payment shall be approved by the Executive Department for Finance and Administration and paid by the State Treasurer. Appropriations for these judgments shall be continued appropriations.

Section 8. KRS 44.290 is hereby repealed.

SB 119, AN ACT relating to the Railroad Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 276 is created to read as follows:

(1) The Railroad Commission is hereby authorized to enter into an agreement or agreements with the Federal Railroad Administration to administer the provisions of the Federal Railroad Safety Act of 1970 (45USC 421, et seq.).

(2) Any agreements entered into pursuant to this authority shall be subject to the approval of the Secretary of Transportation, Commonwealth of Kentucky, and the Commissioner of the Executive Department for Finance and Administration.

Section 2. There is hereby appropriated, for the purposes of this Act, out of the General Expenditure Fund in the State Treasury the sum of twenty-five thousand dollars (\$25,000) for the fiscal year 1974-75 and the sum of twenty-five thousand dollars (\$25,000) for the fiscal year 1975-76.

Announcements (continued)

Representative Robinson moved that the House adjourn in honor of the Republican Party's 120th Anniversary.

On the roll call the vote was yeas 44-Arnold, Benson, Beshear, Blume, Blythe, Davis, Dawahare, Denham, Dunn, Foster, Givhan, Graves, Hardin, Hellard, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kidd, Lewis, Little, Loudon, Mason, May, McBee, McBride, McGill, Morgan, Overstreet, Priddy, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Swinford, Van Horn, Vincent, J. White, Wible. Nays 8-Bennett, R. Brown, Donnermeyer, Hancock, Kenton, Mann, Paxton, Whitfield.

The motion that the House adjourn in honor of the Republican Party's 120th Anniversary was adopted.

Representative J. White moved that the House adjourn in honor of John E. White. Agreed.

The Chairman announced a meeting of the Committee on Judiciary, 9:00 A.M., March 1, 1974, Room 305A.

The Chairman announced a special meeting of the Committee on Labor and Industry, 9:00 A.M., March 1, 1974.

The following members filed Floor Amendments: Representative Priddy, Floor Amendment No. 7 and Floor Amendment No. 6 to **HB 368**; Representative Benson, Floor Amendment No. 5 to **HB 368**; Representative Robinson, Floor Amendment No. 4 to **HB 368**; Representative Holbrook, Floor Amendment No. 3 to **HB 368**; Representative Arnold, Floor Amendment No. 1 to **HB 443**; Representative Burch, Floor Amendment No. 1 to **HB 476**; Representative Stephens, Floor Amendment No. 1 to **HB 639**; Representative Lindsay, Floor Amendment No. 1 to **HB 314**.

Adjournment

Representative Swinford moved that the House adjourn until 10:00 A.M. on Friday, March 1, 1974.

On the roll call the vote was yeas 59-Adams, Arnold, Bennett, Benson, Beshear, Blume, R. Brown, Chandler, Clapp, Davis, Dawahare, Denham, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Hancock, Head, Hellard, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kenton, Kidd, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, Paxton, Priddy, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stone, Swinford, Troop, Van Horn, Vincent, J. White, Wible. Nays 2-Allen, Bruce.

The motion to adjourn was adopted.

FRIDAY, MARCH 1, 1974

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blume.

Prayer by Representative Larry Hopkins.

The roll was called. All present except Representative Hinkle.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representative Hinkle.

Representative Hughes moved that the reading of the Journal of February 28, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 738, by Representatives Hardin, Brewer, R. Brown, Dawahare, Freeman, Hislope, Little, Sharpe, Smith and Turner: AN ACT relating to severance taxes.

HB 739, by Representative R. Brown: AN ACT relating to unemployment compensation.

HB 740, by Representative Chandler: AN ACT relating to the termite and pest control industry.

Senate Message

Announcing passage of **SB 110**, **SB 156**, **SB 165**, **SB 239**, **SB 255**, **HB 41**, **HB 58**, and **HB 327**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 82**, **SB 245**, **HB 729**.

Appropriations and Revenue: **HB 721**; **HB 733**, **HB 734**, **HB 736**.

Cities: **HB 722**, **HB 723**, **HB 735**.

Education: **HB 731, HR 75.**

Elections and Constitutional Amendments: **HB 720.**

Health and Welfare: **HB 730, HB 732, HB 737.**

Highways and Traffic Safety: **HR 74.**

Judiciary: **HB 726, HB 727, HB 728.**

Labor and Industry: **HB 724.**

Public Utilities: **HB 725.**

Report on Enrolled Bills

The Committee on Enrollment reported **SB 11, SB 25, SB 105, and SB 126** had been examined and found correctly enrolled. **SB 11, SB 25, SB 105, and SB 126** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 119, HB 148, and HB 356 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Speaker Pro Tempore Paxton residing.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 730.**

Education: **HB 63, HB 235, HB 265, HB 267, HB 666, HB 717, HR 64, HR 67, HR 72, SB 20, SB 73, SB 130.**

Counties and Special Districts: **HB 621, HB 623, HB 637, HB 670, HB 676, HB 683, SB 143, SB 168, SB 214, SB 215.**

Report of Committees

The Committee on Rules reported **HB 180** with Committee Substitute attached thereto, **HB 399, HB 537, HB 541** with Committee Amendment attached thereto, **HB 639** with Committee Substitute attached thereto, **HR 50, HB 414** with Committee Amendment attached thereto, **HB 443** with Committee Amendment attached thereto, **HB 496, HB 608, HB 253, HB 586, HB 170** with Committee Substitute attached thereto, **HB 176** with Committee Substitute attached thereto, **HB 491** with Committee Amendment attached thereto, **HB 493** with Committee Amendment attached thereto, **HB 603, HB 650, SB 112 and SB 172** have been posted for passage in Orders of the Day, March 4, 1974.

The Committee on Rules reported **HB 632** has been recommitted to the Committee on Public Utilities and Transportation for study and analysis.

The Committee on Rules reported **HB 84** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Rules reported **HB 85** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

The Committee on Judiciary reported **HB 100**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Judiciary reported **HB 426, HB 511, HB 533, HB 546, SB 90, and SB 135** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 426, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 72 is created to read as follows:

The office of coroner, rather than the individual holder of the office, shall be liable for the acts or omissions of deputy coroners. When a deputy coroner omits to act or acts in such a way as to render the coroner responsible, and the coroner discharges such responsibility, the deputy shall be liable to the coroner for all damages and costs caused by the deputy's act or omission.

HB 511, AN ACT relating to title by a commissioner's deed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 426 is created to read as follows:

Any grantee or grantees who hold title to real property by virtue of a commissioner's deed which does not expressly provide that the grantee is being conveyed less than the fee simple title, shall, after having possession under the commissioner's deed for a period of not less than fifteen (15) years, be conclusively presumed to own the real property described in the deed by fee simple absolute title.

HB 533, AN ACT relating to condemnation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 416 is created to read as follows:

Before commencing any action to condemn property in this state, the condemnor shall attempt to agree with the owner as to the compensation to be paid for the property. It is not a prerequisite to an action to attempt to agree with an owner who is unknown or who, after reasonable effort cannot be found in the state.

Section 2. A new section of KRS Chapter 416 is created to read as follows:

(1) In all condemnation actions, the condemnor must file with the court as part of the record a sworn statement in which the amount of the final offer of the condemnor to the landowner is set forth.

(2) If a condemnation action is initiated and the amount of the final judgment is greater by ten per cent than the final offer of the condemnor, the condemnor shall pay to the landowner a sum for the landowner's attorney fees equal to twenty per cent of the amount by which the final judgment exceeds the final offer of the condemnor, and said sum shall be added to the final judgment by the court.

HB 546, AN ACT relating to the reporting of vehicle accidents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 189 is created to read as follows:

(1) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a written report of the accident with his law enforcement agency within ten days after his investigation of the accident upon duplicate forms supplied by the Department of Justice.

(2) Every law enforcement agency receiving vehicle accident reports required by subsection (1) shall forward one copy thereof to the Department of Justice from time to time as prescribed by regulations of the department.

Section 2. A new section of KRS Chapter 189 is created to read as follows:

Any law enforcement agency which fails or refuses to forward the reports required by Section 1 of this Act shall be subject to the penalties prescribed in KRS 17.157 (2).

Section 3. To implement the provisions of this Act there is hereby appropriated from the general expenditure fund two hundred thousand dollars to the Department of Justice for the fiscal year 1975-76.

Section 4. This Act shall become effective July 1, 1975.

SB 90, AN ACT relating to privileged communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of the KRS Chapter 421 is created to read as follows:

Any certified counselor who meets the requirements issued pursuant to the authority of KRS 161.030, and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state, shall be immune from disclosing in any civil or criminal court proceeding, without the consent of the student counselee, any communication made by the student counselee to the counselor in his professional character, or the advice thereon. If the student counselee is less than eighteen years of age, neither the communication nor advice thereon shall be disclosed in the court proceeding without the consent of the student counselee and his parent or legal guardian.

SB 135, AN ACT relating to civil rights.

WHEREAS, the purpose of the Kentucky Civil Rights Act is to provide for execution within the State of the policies embodied in Federal civil rights law; and

WHEREAS, housekeeping amendments are needed to the Kentucky Civil Rights Act of 1966 as amended in 1968 and 1972 to carry out policies of Federal Civil Rights Acts and recent court decisions;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(2) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.

(3) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(4) "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer.

(5) "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

Section 2. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty days after the alleged unlawful practice occurs[, except that a complaint alleging discrimination in real estate transaction must be filed within thirty days, and a complaint alleging discrimination in employment (under KRS 344.030 to 344.110) must be filed within ninety days].

(2) The commission shall determine within thirty days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(3) The complainant, within ten days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and such other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take such action as it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under KRS 344.160, 344.190 to 344.210, and 344.230 to 344.260, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper.

Section 3. KRS 344.230 is amended to read as follows:

(1) If the commission determines that the respondent has not engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the attorney general, and such other public officers and persons as the commission deems proper.

(2) If the commission determines that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, the attorney general, and to such other public officers and persons as the

commission deems proper.

(3) Affirmative action ordered under this section may include but is not limited to:

(a) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.

(b) Admission or restoration of individuals to union membership, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs.

(c) Admission of individuals to a place of public accommodation, resort, or amusement.

(d) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent.

(e) Reporting as to the manner of compliance.

(f) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission.

(g) *Sale, exchange, lease, rental, assignment or sublease of real property to an individual.*

(h) *Payment to the complainant of damages for injury caused by an unlawful practice including compensation for humiliation and embarrassment, and expense incurred by the complainant in obtaining alternative housing accommodations and for other costs actually incurred by the complainant as a direct result of such unlawful practice.*

(4) The commission may publish or cause to be published the names of persons who have been determined to have engaged in an unlawful practice.

Section 4. KRS 344.365 is amended to read as follows:

(1) Nothing in KRS 344.360 shall apply:

(a) To the rental of a housing accommodations in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of *one room or one rooming unit in a* [a portion of a] housing accommodation by *an individual* [the occupant of the housing accommodation, or by the owner of the housing accommodation] if he or a member of his family resides therein;

(c) To a religious institution, or to an organization operated for charitable or educational purposes, which is operated, supervised or controlled by a religious corporation, association or society, to the extent that the religious corporation, association, or society, limits, or gives preferences in, the sale, lease, rental, assignment, or sublease of real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained.

(2) Nothing in this chapter shall be construed to affect the legal rights of a private individual homeowner to dispose of his property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display.

(3) Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

The Committee on Labor and Industry reported **HB 473** with Committee Amendment attached thereto, **HB 614, HB 622, HB 664, HB 672, SB 114, and SR 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 473, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.370 is amended to read as follows:

(1) According to the circumstances in each case, a worker shall be disqualified from receiving benefits or serving a waiting period:

(a) For not less than one (1) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if, subsequent to his most recent work, he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the commissioner or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the commissioner; or

(b) For not less than six (6) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if he has been discharged for misconduct connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

(2) A worker shall be disqualified from receiving benefits or serving a waiting period for the duration of any period of unemployment with respect to which:

(a) He was discharged for dishonesty in connection with his most recent work;

(b) He voluntarily quit his most recent work to marry or for the purpose of attending school, or to become self-employed; or

(c) He has left his most recent suitable work voluntarily without good cause.

(3) *A spouse who leaves her most recent suitable work voluntarily in order to move to another city where her husband has been transferred or has acquired new employment, and the city moved to is more than 25 miles from her most recent city of employment, shall be deemed to have good cause under this section.*

(4) [(3)] A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits; and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the commissioner.

(5) [(4)] No worker shall be disqualified under paragraph (b) of subsections (1) or (2) of this section unless the employer, within a reasonable time as prescribed by commission regulation, notifies the division and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; Provided, however, That nothing in this subsection shall restrict the right of the commissioner to disqualify a worker whose employer has refused or failed to notify the division of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the commissioner prior to the time benefits are paid to such worker; Provided, further, That the exercise of such right by the commissioner, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(6) [(5)] As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was intermittent or temporary in nature, most recent work may be construed as that work last preceding such intermittent or temporary work.

The Committee Amendment to **HB 473** is as follows:

Amend printed copy of House Bill 473 page 2, line 11 by deleting "spouse" and inserting "person" in lieu thereof and on page 2, line 11, by deleting "her" and inserting "a" in lieu thereof and on page 2, line 13, by deleting "her husband" and inserting "the person's spouse" in lieu thereof and on page 2, line 15, by deleting "her" and inserting "the person's" in lieu thereof

HB 614, AN ACT relating to collective bargaining for non-profit hospital employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 337 is created to read as follows:

This Act shall be known as the "Non-Profit Hospital Employees Collective Bargaining Act."

Section 2. A new section of KRS Chapter 337 is created to read as follows:

Whereas, it is hereby declared to be the policy of the State of Kentucky to eliminate the causes of certain substantial obstructions to public business and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by non-profit hospital employees of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Section 3. A new section of KRS Chapter 337 is created to read as follows:

When used in this Act:

(1) "Employer" means any non-profit hospital within the Commonwealth of Kentucky or any institution providing medical or health care that petitions the Commissioner of Labor to be included in this Act.

(2) "Non-profit Hospital Employees" means any employee of an employer as defined in this section engaged in serving the public by providing medical and health care including, but not limited to, nursing services, technical and laboratory aid, maintenance and clerical help in support of the patient care function.

(3) "Labor organization" means any chartered labor organization of any kind in which non-profit hospital employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment or conditions of employment;

(4) "Exclusive representative" means the labor organization which has been designated by the State Labor Relations Board as the representative of the majority of non-profit hospital employees in appropriate units or has been so recognized by the employer.

(5) "Board" means the State Labor Relations Board as created under KRS Chapter 345.

(6) "Person" includes one or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(7) "Commissioner" means the Commissioner of Labor of the Commonwealth of Kentucky.

Section 4. A new section of KRS Chapter 337 is created to read as follows:

(1) Non-profit Hospital Employees shall have, and shall be protected in the exercise of, the right of self-organization, to form join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint or coercion.

(2) Labor organizations designated by the State Board of Labor Relations as the representative of the majority of non-profit hospital employees in an appropriate unit or recognized by an employer as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment.

(3) Labor organizations recognized by an employer as the exclusive representative or so designated in accordance with the provisions of this Act shall be responsible for representing the interest of all non-profit hospital employees in the unit without discrimination.

Section 5. A new section of KRS Chapter 337 is created to read as follows:

The employer and such labor organization as has been designated as exclusive representative of non-profit hospital employees in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively as set forth in subsection (3) of Section 6 of this Act.

Section 6. A new section of KRS Chapter 337 is created to read as follows:

(1) Employers, their representatives or their agents are prohibited from:

(a) Interfering, restraining or coercing non-profit hospital employees in the exercise of the rights guaranteed in Section 4 of this Act;

(b) Dominating or interfering with the formation, existence or administration of any labor organization.

(c) Discriminating in regard to hiring or tenure of employment of any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this Act, or in any other statute of this state, shall preclude an employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this Act;

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

i. Non-profit hospital employees in the exercise of the right guaranteed in subsection (1) of Section 4 of this Act, and

ii. Any employer in the selection of this representative for the purposes of collective bargaining or the adjustment of grievances;

(b) Refusing to bargain collectively in good faith with an employer, if they have been designated in accordance with the provisions of this Act as the exclusive representative of non-profit hospital employees in an appropriate unit.

(3) For the purposes of this Act, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The

obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 7. A new section of KRS Chapter 337 is created to read as follows:

(1) Whenever in accordance with such regulations and as may be prescribed by the State Labor Relations Board a petition has been filed:

(a) By a non-profit hospital employee or group of non-profit hospital employees or any labor organization acting in behalf of 30 percent of the employees who have signed union affiliation cards and the union showing proof of representation.

i. Wish to be represented for collective bargaining by a labor organization as exclusive representative, or

ii. Assert that the labor organization which has been certified or is currently being recognized by the employer as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) By the employer alleging that one or more labor organizations has presented to it a claim to be recognized as a representative of the majority of non-profit hospital employees in an appropriate unit; the board shall investigate such petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the non-profit hospital employees desire to be represented and shall certify the result thereof.

(2) The board shall decide in each case, in order to assure non-profit hospital employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the non-profit hospital employees involved, the history of collective bargaining, and the desires of non-profit hospital employees.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which the preceding twelve-month period a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as exclusive representative of all the non-profit hospital employees in the unit.

(4) Nothing in this or any other Act shall be construed to prohibit recognition of a labor organization as the exclusive representative by an employer by mutual consent.

(5) No election shall be directed by the board in any bargaining unit where there is in force and effect a valid collective bargaining agreement. Provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Section 8. A new section of KRS Chapter 337 is created to read as follows:

Violations of the provisions of Section 6 of this Act shall be deemed to be unfair labor practices remedial by the board in the following manner:

(1) Whenever it is charged by an employer or a labor organization that any person has engaged in or is engaging in any such unfair labor practices, the board, or any agent designated by the board for such purposes, shall issue and cause to be served upon the person a copy of the charges and a notice of hearing before the board of a member thereof, or before a designated agent, at a place there fixed, not less than five days after serving of the copy of the charges by the board. Any charge may be amended by the charging party, at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the person charged shall appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. (In the discretion of the member or agent conducting the hearing or the board,) any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the board shall not be bound by the rules of evidence prevailing in the courts.

(2) The testimony taken by the member, agent or the board shall be reduced to writing and filed with the board. Thereafter the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of non-profit hospital employees with or without back pay, as will effectuate the policies of this Act. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the board shall state its finding of fact and shall issue an order

dismissing the complaint. No order shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event, the six-month period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as a non-profit hospital employee who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause.

(3) Until the record in a case has been filed in court, the board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the circuit court for the county in which the violation occurred, the record in the proceedings. Upon the filing of the petition, the circuit court shall cause notice thereof to be served upon the charged party, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its member or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the circuit court for leave to present additional evidence and shows to the satisfaction of the circuit court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, its member or agent, the court may order the additional evidence to be taken before the board, its member or agent, and to be made a part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record (with it) the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Court of Appeals in accordance with the general court rules.

(5) Any person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court by filing in the circuit court a complaint praying that the order of the board be modified or set aside, with copy of the complaint filed on the board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board. Upon the filing of the complaint, the court shall proceed in the same manner as under subsection (4), and shall grant to the board such temporary relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(6) The commencement of proceedings under subsections (4) and (5) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(7) Complaints filed under this Act shall be heard expeditiously by the court to which presented, and shall take precedence over all other civil matters except earlier matters of the same character.

Section 9. A new section of KRS Chapter 337 is created to read as follows:

(1) If after a reasonable period, but in no event less than thirty days, of negotiations over the terms of a new collective bargaining agreement or modifications in an existing agreement the parties to the negotiations are deadlocked, either party or the parties jointly may petition the board by certified mail, to initiate fact finding.

(2) Upon receipt of a petition to initiate fact finding, the commissioner shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the commissioner is empowered to utilize his office in an effort to effectuate a settlement between the parties through mediation and conciliation.

(3) Upon completion of the commissioner's investigation, and if a settlement between the parties has still not been reached, the commissioner shall within five days appoint a qualified and disinterested person as the impartial chairman of a three-man panel to function as the fact finders. In addition to the impartial chairman, the other two members of the panel shall be one member named by the labor organization and one by the employer, parties to the deadlocked negotiations.

(4) Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the employer is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings the panel shall, by majority decision, make written findings of fact and recommendations for solution of the dispute. The panel shall cause all of its written findings,

recommendations and opinions to be served on the employer and labor organization (parties) and same shall be released to the public. Expenses incurred by the three-man panel in Section 9, subsections (1), (2), (3), (4), (5), (6) shall be paid by the parties involved in the labor dispute.

(5) The commissioner may adopt, promulgate, amend and rescind such rules and regulations as he deems necessary and administratively feasible not inconsistent with the provisions of this Act to carry out his responsibilities over the fact-finding procedures set forth in this section. However, unless the parties agree to extend the time for the hearings, they must be completed with recommendations from the fact-finding panel, within 120 days from the date the petition to initiate the fact-finding procedure was received by the commissioner.

Section 10. A new section of KRS Chapter 337 is created to read as follows:

Except as hereinafter provided, when a labor organization has been designated in accordance with the provisions hereof as the exclusive representative of non-profit hospital employees in an appropriate unit, the chief executive officer of the employer or his designated authorized representative or authorized representatives, shall represent the employer in collective bargaining with such employee organization.

Section 11. A new section of KRS Chapter 337 is created to read as follows:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this Act and signed by the chief executive officer of the employer or his representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between an employer and a labor organization provided by this Act shall be the exclusive method of making a valid agreement for non-profit hospital employees represented by a labor organization.

(3) Suits for violation of agreements between an employer and a labor organization representing non-profit hospital employees may be brought by the parties to such agreement in the circuit court of the county of the employer.

Section 12. A new section of KRS Chapter 337 is created to read as follows:

Upon the written authorization of any non-profit hospital employee within a bargaining unit, the employer shall deduct from the payroll of the non-profit hospital employee the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

HB 622, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.120 is amended to read as follows:

(1) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations, and the board shall upon its own motion at any time before the rendition of the final award, cause the Special Fund to be made a party to the proceedings if either or both of the following appears:

(a) The employee is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employee is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(2) When the Special Fund has been made a party the board shall direct the procedures provided in KRS 342.121, and when either the special fund or the office of the Attorney General has been made a party the board shall, before taking any further action in the case, furnish a certified copy of the complete record in the case with all exhibits, to and including the date the special fund or the office of the Attorney General was made a party, to the commissioner if the special fund is made a party and to the Attorney General if his office is made a party.

(3) If it is found that the employee is a person mentioned in paragraphs (a) or (b) of subsection (1) and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employee is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable only for the degree of disability which

would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(4) The remaining compensation for which such resulting condition would entitle the employee, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, but excluding all compensation which the provisions of this chapter would have afforded on account of prior disabling disease or injury had it been compensated thereunder, shall be paid out of the Special Fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employee by the carrier or self-insured employer who is liable for compensation under subsection (3) of this section, and the carrier or self-insured employer shall be reimbursed for such payments from the Special Fund on a quarterly basis and under such regulations as the *commissioner* [board] may provide for such purpose.

Section 2. KRS 342.122 is amended to read as follows:

(1) "Adjusted cost" as used in this section and in KRS 342.475 means all compensation, hospital and medical benefits paid thereunder, plus an additional factor of twelve percent of such total payments, to cover the administrative cost of the employer. However in no event shall "adjusted cost" be less than fifty percent of the basic insurance premium computed by applying current manual rates for workmen's compensation insurance to the payroll of every employer carrying his own risk and for this purpose each such employer shall annually furnish payroll data to the *commissioner* [Workmen's Compensation Board]. "Adjusted cost" shall not include amounts paid for injuries occurring prior to March 22, 1962.

(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475, a Special Fund tax at the rate of three-fourths of one percent of the amount of premiums received shall be paid by every insurance carrier as defined in KRS 342.445, subject to the credits therein set out, and the *commissioner* [board] shall assess against the "adjusted cost" of every employer carrying his own risk a Special Fund Tax computed by taking three-fourths of one percent of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465 and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths of one percent of such premiums of insurance carriers.

(3) All taxes and assessments imposed by subsection (2) of this section shall be paid into the State Treasury and shall be credited to the Special Fund for the *commissioner* [board], which fund shall be used only for the payment of awards of compensation made by the board and chargeable against said fund, expenses of legal representation thereof, fees and expenses of the physicians in connection therewith, and shall be withdrawn for that purpose by [under the supervision of] the Commissioner of Labor *who shall direct the administrative and fiscal operations of the special fund and, any other statute to the contrary notwithstanding, the board shall have no control over the administrative or fiscal operations of the special fund after the effective date of this Act.*

(4) Any sum remaining in the Special Fund at the end of any fiscal year shall be set up by the *Executive Department for Finance and Administration* [Department of Finance] to the credit of such fund for the next ensuing fiscal year.

(5) If the Commissioner of Labor finds that the Special Fund tax levied pursuant to this section is insufficient to pay such claims awarded under the Special Fund provisions, then he may levy additional assessments against all insurance companies writing workmen's compensation insurance in Kentucky, including every employer carrying his own risk. The amount of each insurance company's assessment shall be in the proportion that each company's annual workmen's compensation premium writings in Kentucky bears to the total of all annual workmen's compensation premiums written in Kentucky. Such assessment will be based upon information contained in the insurance company's last filed annual statement with the Department of Insurance. Such assessments against every employer carrying his own risk will be based upon that proportion which the "adjusted cost" of all such own risk carriers. "Adjusted cost" reports filed with the board in accordance with KRS 342.475 will be the basis of such determination. Such additional assessment against insurance companies and employers carrying their own risk shall be apportioned between the two classes as the total of premiums and the total of "adjusted cost" each bears to the combined total.

(6) The fund heretofore designated as the Subsequent Claim Fund is abolished and there is substituted therefor the Special Fund as herein set out and all monies and properties owned by the Subsequent Claim Fund are transferred to the Special Fund.

HB 664, AN ACT relating to sand-pits, quarries, excavations, land-fill dumps and the public safety affected thereby.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 336 is created to read as follows:

(1) The Kentucky General Assembly hereby finds that it is necessary to the health and welfare of the citizens of the Commonwealth that there be maintained at all times, both now and in the future, a reasonable degree of safety on and near such property as is used for sand-pits, quarries, excavations and land-fill dumps.

(2) All sand-pits, quarries, excavations, and land-fill dumps shall be thoroughly inspected for nuisances, hazards and unsafe conditions either upon a complaint from the citizenry of the Commonwealth, or by the Commissioner of Labor, or his authorized representative when the conditions so warrant it.

(3) The Commissioner of Labor may appoint up to four general inspectors for the purpose of inspecting sand-pits, quarries, excavations and land-fill dumps. Salaries of said general inspectors shall be appropriated in the same manner as other employes of the Labor Department and expenses of such inspectors shall be provided for in the same general manner as the expenses of other investigations conducted by the Labor Department.

(4) The Commissioner of Labor or his authorized representatives shall examine and inspect nuisances, hazards and unsafe conditions on such sand-pits, quarries, excavations and land-fill dumps which may be injurious to the health and safety of the citizenry, with particular emphasis on the safety of children of the Commonwealth. The Commissioner may order, in writing, the owner or occupant thereof, at the expense of such owner or occupant, to remove such nuisance, hazard, or unsafe condition or otherwise provide protection to the public-at-large from such nuisance, hazard or unsafe condition, within such reasonable time as the use of all practical, available and reasonable methods to prevent and control such nuisance, hazard or unsafe condition allows.

(5) If such recommendations and directives are not acted upon within a reasonable time, as prescribed, the Commissioner shall maintain mandatory or prohibitory injunction proceedings in the appropriate circuit court to effect compliance with the Commissioner's directive on such nuisances, hazards and unsafe conditions which have been determined to be harmful to the health and public safety of the community in which it is located.

HB 672, AN ACT relating to the payment of wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 337 is created to read as follows:

Any employe who leaves or is discharged from his employment shall be paid in full all wages or salary earned by him; either upon his dismissal or voluntary leaving or upon three days' demand. Any employe who is absent at the time fixed for payment by an employer, or who, for any other reason, is not paid at that time, shall be paid thereafter at any time or upon six days' demand. No employer shall, by any means, secure exemption from this section.

Section 2. A new section of KRS Chapter 337 is created to read as follows:

Any employer who violates Section 1 of this Act shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense and shall make full payment to the employe by reason of said violation. Each failure to pay an employe the wages as required by Section 1 shall constitute a separate offense.

SB 114, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have

the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer and the Special Fund.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the Special Fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the Special Fund, and any other interested party shall have the right [as provided under KRS 342.021] to have the claimant examined by competent medical experts, *at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative, shall be furnished a copy of said medical report within a reasonable time.*

5. Within sixty (60) days of the filing of the claim the employer, the Special Fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten days enter an order and award for the claimant. If the claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the Workmen's Compensation Board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the Workmen's Compensation Board within three years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the Workmen's Compensation Board within three years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the Workmen's Compensation Board within five years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease, a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the Workmen's Compensation Act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within 20 years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workmen's Compensation Act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for 10 years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which (a) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (c) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) if diagnosis had been made in the manner prescribed in paragraph (a) or (b), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13) (a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the Special Fund for all claims filed prior to January 1, 1973; and 75 percent shall be paid by the Special Fund and 25 percent by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the Special Fund, and the employer shall be liable for sixty percent of the compensation due and the Special Fund shall be liable for forty percent of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the Special Fund under this section, all of the compensation awarded shall be paid from the Special Fund and the Special Fund shall be reimbursed

by the carrier or self-insured employer on a quarterly basis and under such regulations as the Board may provide for such purpose [by the carrier or self-insured employer, and the carrier or self-insured employer shall be reimbursed for such payments from the Special Fund on a quarterly basis and under such regulations as the board may provide for such purpose].

(b) In all claims for compensation partially payable by the Special Fund the Commissioner of Labor, as custodian of said fund, shall be designated as co-defendant.

(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the Special Fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the Special Fund for the balance of the compensation payable. Nothing in this section shall prohibit the Commissioner of Labor, as custodian of the Special Fund, from entering into agreements to pay the compensation for which it is liable; provided, however, that where compensation is payable by both the employer and the Special Fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.

Section 2. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the board. No attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 per cent of the first \$25,000.00, 15 percent of the next \$10,000.00 and 5 percent of the remainder of the amount recovered as actuarially determined on past and future benefits according to the American Experience Table of Mortality and the Remarriage Tables of the Dutch Royal Insurance Institute. *In no case shall the fee exceed \$7,500.00.* Provided, however, the board, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The board may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. *Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 (2) (b) paragraph 5 shall result in an award of an attorney fee not exceeding \$750.00.*

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the board, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The entire attorney's fee in a lump sum shall be paid directly to the attorney of record, and the board in allowing or approving an attorney's fee, as provided in this section, shall order the payment of same directly to the attorney, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose.

(3) The General Assembly declares that by the enactment of subsections (2) (b) and (7) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the board shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(4) *The board shall approve any contract between attorney and client if the limits on fees enumerated below are followed.*

(a) *When the claim is uncontested under the provisions of KRS 342.316 (2) (b), paragraph (5), the attorney fee shall not exceed an amount equal to \$750.00.*

(b) *When the claim is contested, the fee of the attorney through the Circuit Court shall not exceed a sum equal to 20 percent of the amount recovered, or \$5000.00, whichever is less.*

(c) *When an order or award is appealed to the Court of Appeals, the attorney fee shall not exceed 20 percent of the amount recovered, or \$6000.00, whichever is less.*

(5) *The attorney's right to his fee shall become vested as of the entry of the award.*

SR 16, A JOINT RESOLUTION directing the Legislative Research Commission to cause to be conducted a study of littering problems in Kentucky and feasible solutions applicable thereto.

WHEREAS, litter constitutes a major problem in the Commonwealth of Kentucky; and

WHEREAS, the Commonwealth spends approximately \$2,000,000 each year to clean up litter; and

WHEREAS, the county and city governments of the Commonwealth spend untold millions of dollars to clean up litter; and

WHEREAS, the General Assembly has as one of its deep concerns the preservation of Kentucky's natural beauty and its environment; and

WHEREAS, non-returnable containers of all types contribute to the massive litter problems; and

WHEREAS, the "Oregon Experience" and the "Vermont Experience" have been cited by proponents and opponents to support and oppose proposed legislation in the 1974 General Assembly; and

WHEREAS, it appears in the best interest of all citizens of the Commonwealth to achieve a sound, workable solution to the problems of litter,
 NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission is directed to make or cause to be made a comprehensive study of:

- (1) the overall problem of litter in Kentucky and its sources;
- (2) a review of all existing anti-litter statutes in Kentucky and other jurisdictions;
- (3) the record and method of enforcement of existing anti-litter laws;
- (4) the economic, social and environmental ramifications of the application of the Oregon Bottle Bill to Kentucky; and
- (5) publish said study, together with recommendations by December 1975.

Section 2. All cabinets, agencies and departments of state government are directed to provide full assistance and information to the Legislative Research Commission upon request.

Section 3. The approximate cost of this study is estimated to be \$15,000.

Calendar

SB 117 with Committee Amendment attached thereto, **HB 655**, with Committee Amendment attached thereto, **SB 29** with Committee Amendment attached thereto, **SB 128**, **HB 490**, **HB 497**, **HB 662**, **HB 288** with Committee Substitute attached thereto, **HB 294** with Committee Amendment attached thereto, **SB 178**, **HB 341**, **HB 480** with Committee Amendment attached thereto, **HB 483**, **HB 648**, **SB 100** with Committee Amendment attached thereto, **HB 401**, **HB 576**, **HB 580**, **HB 595**, **HB 687**, **HB 702**, **HB 353**, with Committee Amendment attached thereto, **HB 378**, **HB 457**, **HB 529**, **HB 589**, **HB 590**, **HB 487** with Committee Amendment attached thereto, **HB 501**, **HB 600**, **HB 601**, **HB 627**, **HR 63**, **HB 560**, **HR 27**, **HR 32**, **HJR 44**, **HR 53**, **HCR 62**, **SB 86** with Committee Substitute attached thereto, **SB 119** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

The Speaker resumed the Chair.

Motions, Petitions and Communications

Representative Reynolds moved that the vote on **HB 21** be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was yeas 53-Benson, Beshear, Blandford, Blume, Blythe, Brewer, Burch, Chandler, Clapp, Clarke, Denham, Donnermeyer, Dunn, Foster, Freeman, Graves, Guenther, Hellard, Hurst, Imes, Kafoglis, Karem, Kleier, Lewis, Lindsay, Little, Mann, Maynard, McBrayer, McBride, Morgan, Nett, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Schmidt, Siemens, Stephens, Swinford, Troop, Vincent, Watkins, Wells, G. White, Whitfield, Wible, Yates. Nays 26-Allen, Bennett, Bruce, Crupper, Dietz, Gay, Hancock, Harris, Hislope, Hughes, Isler, King, Loudon, Mason, McBee, McGill, Overstreet, Pearman, Robinson, Sale, Sharpe, Smith, Stone, Turner, Van Horn, J. White.

The motion that the vote on **HB 21** be reconsidered and that it be placed in Orders of the Day was adopted.

Representative Holbrook moved that the vote on **HB 368** be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was yeas 40-Benson, Beshear, Blandford, Blume, Blythe, Bowles, Burch, Chandler, Clarke, Freeman, Givhan, Graves, Hellard, Holbrook, Kafoglis, Karem, Kidd, King, Kleier, Lewis, Little, Mann, Mason, Maynard, McBride, O'Brien, Paxton, Quickert, Richardson, Roberts, Sharpe, Siemens, Stephens, Swinford, Troop, Turner, Wells, Whitfield, Wible, Yates. Nays 25-Adams, Brewer,

Crupper, Davis, Denham, Dietz, Foster, Gay, Harris, Hislope, Hughes, Imes, Isler, Loudon, McGill, Priddy, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Stone, Van Horn, Vincent, J. White.

The motion that the vote on **HB 368** be reconsidered and that it be placed in Orders of the Day was adopted.

Representative Hancock moved the adoption of the following Legislative Citation No. 108:

The House of Representatives of the Commonwealth of Kentucky hereby honors John Bradford Noel Jones, son of Mr. and Mrs. S. Noel Jones of Frankfort, Kentucky, who arrived during this 1974 meeting of the General Assembly. Master Jones' mother, Carolyn, served this honorable body as secretary of its Education committee.

This body extends congratulations and best wishes to all the Jones family on the birth of their son on February 23, 1974. (Sponsored by Representative Hancock)

Representative Hopkins moved the adoption of the following Legislative Citation No. 109:

The House of Representatives of the Commonwealth of Kentucky hereby honors Bill Stakelin, vice president of radio station WVLK, as an outstanding citizen of this Commonwealth and extends to him congratulations on being named Boss of the Year by the Lexington Jaycees.

This body recognizes the high honor and significance of this award and commends Mr. Stakelin for the qualities so distinguished. (Sponsored by Representative Hopkins)

Agreed.

Orders of the Day

Representative Swinford moved that consideration of **HB 304** and **HB 386** be deferred and that they retain their position in Orders of the Day. Agreed.

HJR 30 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by the majority of members elected.

Representative Burch moved that **HJR 30** be placed upon its passage.

On the roll call the vote was yeas 78-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Dunn, Foster, Graves, Guenther, Hancock, Harris, Head, Hellard, Holbrook, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, McBee, McBride, McGill, Morgan, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HJR 30 was passed and the title agreed to.

Representative Burch moved that the vote by which **HJR 30** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Burch moved that a call of the roll be taken to show co-sponsors of **HJR 30**. Agreed.

The following members voted to co-sponsor **HJR 30**: Representatives Adams, Allen, Arnold, Bennett, Blume, Blythe, R. Brown, Crupper, Davis, Dawahare, Donnermeyer, Foster, Guenther, Head, Holbrook, Hopkins, Hughes, Hurst, Isler, Kidd, Little, Mason, McBee, McGill, Overstreet, Pearman, Robinson, Romines, Sale, Sharpe, Smith, Stephens, Turner, VanHorn, Vincent, Watkins, J. White, Wible.

Representative Swinford moved that consideration of **SB 87**, **HB 96** with Committee Amendment attached thereto, **HB 166**, and **HB 476** be deferred and that they retain their position in Orders of the Day.

Agreed.

HB 489 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that **HB 489** be placed upon its passage.

On the roll call the vote was yeas 80-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, Brewer, R. Brown, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kafoglis, Karem, Kidd, King, Kleier, Lewis, Little, Mann, Mason, May, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stone, Swinford, Troop, VanHorn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible, Yates. Nays 0

HB 489 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 489** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 397** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 456, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved the adoption of the Committee Substitute for **HB 456**. Agreed.

Representative Quickert moved that **HB 456**, by way of Committee Substitute, be placed upon its passage.

On the roll call the vote was yeas 44-Adams, Bennett, Benson, Blume, Blythe, Bowles, R. Brown, Burch, Chandler, Dietz, Donnermeyer, Dunn, Graves, Guenther, Holloway, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Loudon, Mann, Mason, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Priddy, Quickert, Roberts, Romines, Schmaedecke, Schmidt, Siemens, Turner, VanHorn, Yates. Nays 42-Arnold, Beshear, Blandford, Bruce, Crupper, Davis, DeMarcus, Denham, Foster, Freeman, Givhan, Hancock, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Imes, Lewis, Lindsay, Little, May, McBrayer, Overstreet, Pearman, Rattliff, Reynolds, Richardson, Robinson, Sale, Smith, Stephens, Stewart, Stone, Swinford, Troop, Vincent, Watkins, J. White, Whitfield, Wible.

HB 456, by way of Committee Substitute, was passed and the title agreed to.

Representative Quickert moved that the vote by which **HB 456**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 41-Bennett, Benson, Blandford, Blume, Blythe, Bowles, R. Brown, Chandler, Dietz, Donnermeyer, Dunn, Graves, Guenther, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, Kleier, Little, Loudon, Mann, Maynard, McBee, McBride, McGill, Morgan, Nett, O'Brien, Quickert, Romines, Schmaedecke, Schmidt, Siemens, Thomas, Turner, Van Horn, Yates. Nays 35-Allen, Arnold, Brewer, Bruce, Burch, Crupper, Davis, DeMarcus, Denham, Foster, Freeman, Givhan, Head, Hellard, Holbrook, Imes, Lewis, May, McBrayer, Overstreet, Rattliff, Reynolds, Richardson, Robinson, Smith, Stephens, Stewart, Stone, Swinford, Troop, Vincent, Watkins, J. White, Whitfield, Wible.

The motion that the vote by which **HB 456**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 41**, **HB 58** and **HB 327** had been examined and found correctly enrolled. **HB 41**, **HB 58** and **HB 327** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 41, **HB 58**, **HB 327** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 138 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 138** be placed upon its passage.

On the roll call the vote was yeas 64-Arnold, Bennett, Benson, Beshear, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Crupper, Dawahare, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Hopkins, Imes, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, McBee, McBrayer, McBride, McGill, O'Brien, Overstreet, Paxton, Quickert, Richardson, Romines, Sale, Schmaedecke, Schmidt, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, G. White, Whitfield, Wible, Yates. Nays 26-Allen, Blandford, Bowles, Davis, DeMarcus, Denham, Foster, Gay, Guenther, Hislope, Hughes, Hurst, Isler, King, May, Maynard, Morgan, Pearman, Reynolds, Robinson, Smith, Stone, Van Horn, Vincent, Watkins, J. White.

HB 138 was passed and the tile agreed to.

Representative Clarke moved that the vote by which **HB 138** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 314**, with Committee Substitute attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

HB 408 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the following Floor Amendment No. 1 to **HB 408**:

Amend printed copy of House Bill 408 page 1, lines 7, 8, and 9, by deleting lines 7, 8, and 9 in their entirety and by adding in lieu thereof the following:

"(b) "Student records" means the official record of a student's academic performance and all non-academic records relating to a student which are maintained by an institution."

page 2, lines 1 through 11, by deleting lines 1 through 11 in their entirety and by adding in lieu thereof the following:

"(2) Except as provided in this Act, all student records shall be confidential and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, school or institution, group or agency, and there shall be no release of student records from the custody of any person, group, department, college or other custodian of records within the institution to any other person, group, department or college within the institution, except with the written consent of the individual student whose records are requested, or by authorization of a subpoena. [All student academic records shall be confidential, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.]"

page 3, line 2, by deleting the words "*under the age of eighteen (18) years*"

Page 3, lines 6 through 11, by deleting lines 6 through 11 in their entirety and by adding in lieu thereof the following:

"(6) Academic test scores, grades, grade-point averages and other objective measures of academic achievement may be released, without the written permission of the student, to those institution administrative officials and faculty responsible for academic progress within the institution."

Agreed.

Representative Mann moved that **HB 408** as amended be placed upon its passage.

On the roll call the votes was yeas 71-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Dawahare, Dietz, Donnermeyer, Givhan, Graves, Guenther, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, Nett, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Watkins, J. White, Whitfield, Wible. Nays 9-Davis, Denham, Hancock, Hughes, Lindsay, O'Brien, Robinson, Turner, G. White.

HB 408 as amended was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 408** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 441**, with Committee Amendment attached thereto, be deferred and that it retain its position in Orders of the Day. Agreed.

HB 445 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Schmaedecke moved that **HB 445** be placed upon its passage.

On the roll call the vote was yeas 84-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, McBee, McBrayer, McBride, McGill, Morgan, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 445 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 445** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 460, with Committee Amendment attached thereto, taken from Orders of Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and place upon its passage. Agreed by a majority of members elected.

Representative Schmaedecke moved the adoption of the Committee Amendment No. 1 to **HB 460**. Agreed.

Representative Schmaedecke moved that **HB 460** as amended be placed upon its passage.

On the roll call the vote was yeas 79-Adams, Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, May, McBee, McBride, McGill, Nett, O'Brien, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, Wible. Nays 2-Lindsay, Whitfield.

HB 460 as amended was passed and the title agreed to.

Representative Schmaedecke moved that the vote by which **HB 460** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 450 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the following Floor Amendment No. 1 to **HB 450**:

Amend printed copy of House Bill 450 page 1, line 15, by deleting by bracketing the words "and his principal employer"

Agreed.

Representative Romines moved that **HB 450** as amended be placed upon its passage.

On the roll call the vote was yeas 75-Allen, Arnold, Bennett, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Davis, Denham, Dietz, Donnermeyer, Foster, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Imes, Isler, Kareem, Kenton, Kidd, King, Kleier, Lewis, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Nett, O'Brien, Overstreet, Pearman, Quickert, Rattliff, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 450 as amended was passed and the title agreed to.

Representative Romines moved that the vote by which **HB 450** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 567 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hopkins moved that **HB 567** be placed upon its passage.

On the roll call the vote was yeas 84-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Brewer, R. Brown, Bruce, Bruch, Clapp, Clarke, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Imes, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Quickert, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 567 was passed and the title agreed to.

Representative Hopkins moved that the vote by which **HB 567** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 618 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wible moved that **HB 618** be placed upon its passage.

On the roll call the vote was yeas 61-Arnold, Bennett, Benson, Blandford, Blume, Brewer, R. Brown, Burch, Chandler, Clapp, Clarke, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenthner, Hardin, Head, Hellard, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kenton, Kidd, King, Lewis, Lindsay, Loudon, Mann, Mason, Maynard, McBee, McBride, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Romines, Sale, Sharpe, Siemens, Smith, Swinford, Troop, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible. Nays 24-Allen, Beshear, Blythe, Crupper, DeMarcus, Gay, Hancock, Harris, Holloway, Imes, Karem, McBrayer, Morgan, Overstreet, Rattliff, Robinson, Schmaedecke, Stephens, Stewart, Thomas, Turner, G. White, J. White, Yates.

HB 618 was passed and the title agreed to.

Representative Wible moved that the vote by which **HB 618** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 640** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 641 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 641** be placed upon its passage.

Representative Overstreet moved that **HB 641** be laid on the Clerk's desk. Agreed.

Representative Swinford moved that consideration of **HJR 24** and **HB 21**, with Committee Amendment and Committee Substitute attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

HB 368, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Robinson moved the adoption of the following Floor Amendment No. 6 to **HB 368**:

Amend printed copy of House Bill 368 page 141, line 21, by deleting following the word "KRS" the numbers "244.100" and "244.320"

Agreed.

Representative Priddy moved the adoption of the following Floor Amendment No. 8 to **HB 368**:

Amend printed copy of House Bill 368 page 141, line 23, by deleting "KRS 411.040"

and, on page 141, between lines 20 and 21, by inserting the following:

"Section 114. KRS 411.040 is amended to read as follows:

An accusation of incest, fornication or adultery against [a female] *any person* shall be actionable. In such case the plaintiff shall not be required to allege or prove special damage."

And, on page 141, line 21, by changing "Section 114." to read "Section 115."

On the roll call the vote was yeas 60-Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Clarke, Davis, Dawahare, DeMarcus, Dietz,

Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hellard, Holbrook, Holloway, Hughes, Imes, Isler, Kleier, Lewis, Mann, Maynard, McBrayer, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Whitfield, Wible. Nays 4-Blythe, Karem, Kenton, Stephens.

The Floor Amendment No. 8 to **HB 368** was adopted.

Representative Priddy moved the adoption of the following Floor Amendment No. 9 to **HB 368**:

Amend printed copy of House Bill 368 page 141, line 23 by deleting "KRS 411.030"

and, on page 141, between lines 20 and 21, by inserting the following:

"Section 114. KRS 411.030 is amended to read as follows:

An action for seduction may be maintained without any allegation or proof of the loss of service of the [female] *victim* by reason of the wrongful act of the defendant."

and, on page 141, line 21, by changing "Section 114." to read "Section 115."

Agreed.

Representative Holbrook moved the adoption of the following Floor Amendment No. 5 to **HB 368**:

Amend printed copy of House Bill 368 page 141, line 22 by deleting "KRS 337.365"

and, on page 141, between lines 20 and 21, by inserting the following:

"Section 114. KRS 337.365(1) is amended to read as follows:

(1) No employer shall require any [female] *employee* to work for more than four (4) hours without rest periods for at least ten (10) minutes. This shall be in addition to the regularly scheduled lunch period. No reduction in compensation shall be made for hourly or salaried employees."

and, on page 141, line 21, by changing "Section 114." to read "Section 115."

On the roll call the vote was yeas 42-Allen, Arnold, Bennett, Blandford, Clapp, Davis, DeMarcus, Denham, Donnermeyer, Foster, Givhan, Guenther, Hancock, Hardin, Harris, Hislope, Holbrook, Hughes, Hurst, Isler, Kafoglis, Kenton, Lindsay, Mann, Mason, McBrayer, McBride, Overstreet, Priddy, Rattliff, Reynolds, Richardson, Robinson, Romines, Schmaedecke, Schmidt, Sharpe, Smith, Troop, Van Horn, Vincent, Wible. Nays 18-Benson, Beshear, Brewer, Burch, Chandler, Clarke, Crupper, Dunn, Hellard, Holloway, Karem, McGill, Nett, Quickert, Stephens, Stewart, Swinford, Turner.

The Floor Amendment No 5 to **HB 368** was adopted.

Representative Lindsay moved the adoption of the following Floor Amendment No. 3 to **HB 368**:

Amend printed copy of House Bill 368 page 130 - delete line 26

page 131-delete lines 1 through 26

page 132-delete lines 1 through 26

page 133-delete lines 1 through 26

page 134-delete lines 1 through 26

page 135-delete lines 1 through 26

page 136-delete lines 1 through 4

and

page 141-delete lines 21 through 24

Representative Rattliff moved that Floor Amendment No. 3 to **HB 368** be laid on the table.

On the roll call the vote was yeas 21-Blythe, Brewer, Clapp, Crupper, Davis, DeMarcus, Denham, Foster, Hardin, Hislope, Hurst, Isler, Overstreet, Pearman, Rattliff, Robinson, Sale, Schmaedecke, Schmidt, Van Horn, Vincent. Nays 49-Arnold, Benson, Beshear, Blandford, Blume, R. Brown, Bruce, Burch, Chandler, Clarke, Dawahare, Dietz, Donnermeyer, Dunn, Graves, Guenther, Hancock, Hellard, Holloway, Imes, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Mann, Mason, Maynard, McBee, McBrayer, McBride, McGill, Morgan, Nett, Paxton, Quickert, Reynolds, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Watkins, Whitfield, Wible.

The motion that Floor Amendment No. 3 to **HB 368** be laid on the table was rejected.

Representative Mason moved that the Floor Amendment No. 3 to **HB 368** be laid on the Clerk's desk.

On the roll call the vote was yeas 19-Allen, Brewer, Bruce, Chandler, Clapp, Crupper, Davis, Foster, Harris, Hughes, Isler, Lewis, Loudon, Mason, McBrayer, Rattliff, Schmaedecke, Schmidt, Van Horn. Nays 39-Benson, Beshear, Blume, R. Brown, Burch, Clarke, Dawahare, Dunn, Freeman, Graves, Guenther, Hellard, Holloway, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Mann, Maynard, McBride, McGill, Nett, Overstreet, Paxton, Quickert, Reynolds, Robinson, Siemens, Stephens, Swinford, Thomas, Troop, Turner, Vincent, J. White, Whitfield, Wible.

The motion that Floor Amendment No. 3 to **HB 368** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 48-Arnold, Bennett, Blandford, Brewer, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Guenther, Hardin, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Lewis, Lindsay, Loudon, May, Maynard, McBee, McBrayer, Pearman, Rattliff, Reynolds, Richardson, Robinson, Sale, Schmaedecke, Schmidt, Stone, Swinford, Troop, Van Horn, Vincent, Watkins, Wible. Nays 33-Benson, Beshear, Blume, Blythe, R. Brown, Bruce, Burch, Clarke, Graves, Holloway, Imes, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Mann, Mason, McBride, McGill, Morgan, Nett, O'Brien, Overstreet, Paxton, Quickert, Siemens, Stephens, Stewart, Thomas, Turner, Whitfield.

The Floor Amendment No. 3 to **HB 368** was adopted.

Representative Benson moved that **HB 368** as amended be placed upon its passage.

Representative Schmaedecke moved that **HB 368** be made a special order of business on March 5, 1974.

On the roll call the vote was yeas 35-Allen, Arnold, Crupper, Davis, DeMarcus, Donnermeyer, Foster, Hardin, Harris, Head, Holbrook, Hughes, Hurst, Isler, Kenton, Lewis, Lindsay, Loudon, Mason, May, Maynard, McGill, Morgan, Overstreet, Pearman, Rattliff, Robinson, Sale, Schmaedecke, Troop, Van Horn, Vincent, Watkins, Wible, Yates. Nays 36-Benson, Beshear, Blume, Blythe, R. Brown, Burch, Chandler, Clarke, Denham, Dunn, Freeman, Graves, Guenther, Hancock, Hellard, Holloway, Imes, Kafoglis, Kareem, Kidd, King, Kleier, Mann, McBee, McBride, Nett, O'Brien, Paxton, Quickert, Romines, Siemens, Stephens, Swinford, Thomas, Turner, Whitfield.

The motion that **HB 368** be made a special order of business was rejected.

On the roll call the vote was yeas 51-Benson, Beshear, Blandford, Blume, Blythe, R. Brown, Burch, Chandler, Clarke, Dawahare, Dunn, Graves, Guenther, Hancock, Hellard, Holbrook, Holloway, Hopkins, Imes, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Mann, Mason, McBee, McBride, McGill, Nett, O'Brien, Overstreet, Paxton, Quickert, Reynolds, Richardson, Romines, Sharpe, Siemens, Stephens, Stewart, Swinford, Thomas, Troop, Turner, Watkins, Whitfield, Wible, Yates. Nays 22-Allen, Brewer, Clapp, Crupper, Davis, DeMarcus, Denham, Foster, Hardin, Head, Hislope, Hughes, Isler, Lindsay, Loudon, May, McBrayer, Pearmen, Rattliff, Robinson, Sale, Van Horn.

HB 368 as amended was passed and the title agreed to.

Representative Benson moved that the vote by which **HB 368** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Swinford moved that the rules be suspended for the purpose of recording request of members concerning voting and co-sponsoring of bills. Agreed.

The following members requested that they be recorded as voting as follows: Representative Swinford, "nay" on **HB 521**; Representative Lewis, "nay" on **HB 544**; Representative King, "nay" on **HB 467**; Representative Dietz, "yea" on **HB 544**; Representative McBride, "nay" on **HB 237**; Representative McBride, "nay" on **HCR 8**; Representative Lindsay, "yea" on **HB 125**; Representative Priddy, "yea" on **HB 121, HB 168, HB 379, HB 95, HB 138, HB 408, HB 445, HB 450, HB 460, HB 567**; Representative Donnermeyer, "yea" on **HB 212, HB 121, HB 168, HB 169, HB 238, HB 233, HB 332, HB 393, HB 462, HB 485, HB 517, HB 555, HB 571, HJR 19, HB 53, HB 75, HB 39, HB 216**; Representative Donnermeyer, "nay" on **HB 204, HB 467**; Representative Mason, "yea" on **HB 521, HB 238, HB 332, HB 75**; Representative Loudon, "nay" on **HB 456**; Representative Whitfield, "yea" on **HB 216**; Representative Richardson, "yea" on **HB 216**; and Representative Wible, "yea" on **HB 521**.

These members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Swinford, **HB 460**; Representative Lewis, **HB 190**; Representative Imes, **HB 262**; Representative Imes, **HB 408**; Representative Hopkins, **HB 276, HB 421, HB 362, HB 40, HB 41, HB 86, HB 59**; Hughes, **HB 567**; Representative Donnermeyer, **HB 476**.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for consideration. Agreed.

Introduction of Bills and Resolutions

HB 741, by Representatives Dietz, Imes and G. White: AN ACT relating to fireworks.

HB 742, by Representatives Chandler, Bennett, Benson, Burch, Karem, Kleier, Maynard, Nett, Quickert, Romines and Siemens: AN ACT relating to extension of civil service classifications.

HB 743, by Representatives Holloway, Siemens and Yates: AN ACT relating to workmen's compensation.

HB 744, by Representatives Chandler, Bennett, Benson, Blume, Blythe, Burch, Dunn, Karem, Kleier, Maynard, Nett, O'Brien, Priddy, Quickert, Romines, Siemens and Yates: AN ACT relating to city civil service boards.

HB 745, by Representative Kenton: AN ACT relating to motor vehicle taxes.

HB 746, by Representative Kenton: AN ACT relating to rural dental scholarships.

HB 747, by Representative Karem: AN ACT relating to judicial retirement.

HB 748, by Representatives Kleier, Blythe and Kenton: AN ACT proposing an amendment to Section 160 of the Constitution of Kentucky, relating to succession in office by mayors in cities of the first and second class, and in cities of the first and second class, where divided into wards or districts, election of members of legislative boards by district for terms of four years.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Business Organizations and Professions: **HB 320**.

Labor and Industry: **HB 27, HB 32, HB 33, HB 37, HB 38, HB 44, HB 46, HB 281, HB 644, HB 645, HB 680, HB 688, HB 690, HB 693, HB 698, HB 700, HB 714, HB 715, HR 51**.

Announcements

The following Floor Amendments were files: Representative Imes, Floor Amendment No 1 to **HB 190** Committee Substitute; Representative Swinford, Floor Amendment No. 1 to **SB 178**; Representative Richardson, Floor Amendment No. 1 to **HB 220**; Representative Richardson, Floor Amendment No. 1 to **HB 272**; Representative Hughes, Floor Amendment No. 2 to **HB 272**; Representative Hughes, Floor Amendment No. 3 to **HB 272**; Representative Freeman, Floor Amendment NO. 3 to **HB 288**; Representative Freeman, Floor Amendment No. 2 to **HB 288**; Representative Mann, Floor Amendment No. 1 to **HB 232**; Representative Arnold, Floor Amendment No. 1 to **HB 92**; Representative DeMarcus, Floor Amendment No. 1 to **HB 288**; Representative Overstreet, Floor Amendment No. 1 to **HB 641**; Representative Imes, Floor Amendment No. 2 to **HB 190**.

The Speaker announced the freshmen members of the House will meet on March 4, 1974, at 1:30 p.m., Room 302.

Adjournment

Representative Swinford moved that the House adjourn until 3:00 p.m., Monday, March 4, 1974.

On the roll the vote was yeas 47-Allen, Bennett, Benson, Beshear, Blume, Blythe, R. Brown, Chandler, Crupper, Davis, Denham, Donnermeyer, Dunn, Foster, Givhan, Hancock, Harris, Imes, Isler, Kafoglis, Kidd, King, Kleier, Lewis, Little, Loudon, Mann, Mason, May, McBee, McBride, McGill, O'Brien, Overstreet, Paxton, Quickert, Robinson, Romines, Sale, Schmaedecke, Schmidt, Swinford, Thomas, Van Horn, Vincent, G. White, J. White. Nays 1-DeMarcus.

The motion to adjourn was adopted.

MONDAY, MARCH 4, 1974

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Paxton.

Prayer by the Reverend J. T. Harmon, First United Methodist Church, Frankfort.

The roll was called. All present except Representatives Allen, Clarke, Hinkle, Imes, and McBride.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

The following members filed excuses: Representatives Allen, Clarke, Hinkle, Imes, and McBride.

Representative Hughes moved that the reading of the Journal of March 1, 1974, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 749, by Representative McBee: AN ACT to provide pensions for police court judges in cities of the third class.

HB 750, by Representatives Reynolds, Beshear, Donnermeyer, Hopkins, Kenton, McBee, Stephens, and Van Horn: AN ACT relating to the racing of standardbred horses in the Commonwealth of Kentucky.

HB 751, by Representative Mann: AN ACT relating to the school term.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 738, HB 745, SB 255.**

Business Organizations and Professions: **HB 740.**

Cities: **HB 742, HB 744, SB 110.**

Education: **SB 156, SB 165, SB 239.**

Elections and Constitutional Amendments: **HB 748.**

Health and Welfare: **HB 746.**

Judiciary: **HB 741, HB 747.**

Labor and Industry: **HB 739, HB 743.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 731, HR 75, SB 125, SB 127.**

Report of Committees

The Committee on Rules reported the following Bills and Resolutions have been posted for passage in Orders of the Day, March 5, 1974: **HB 570, HB 579** with Committee Amendment attached thereto, **SB 137, HB 581** with Committee Amendment attached thereto, **HB 67** with Committee Substitute and Committee Amendment attached thereto, **HB 655** with Committee Amendment attached thereto, **SB 29** with Committee Amendment attached thereto, **SB 128, HB 490, HB 497, HB 662, HB 288** with Committee Substitute attached thereto, **SB 178, HB 341, HB 480** with Committee Amendment attached thereto, **HB 483, HB 401, HB 576, HB 595, HB 687, HB 457, HB 529, HB 487** with Committee Amendment attached thereto, **HB 501, HB 600, HB 627, HR 63, HB 560, HR 32, HJR 44, HCR 62, SB 86** with Committee Substitute attached thereto, **SB 119.**

The Committee on Rules reported **HB 518** has been recommitted to the Committee on Judiciary for study of form and legality.

The Committee on Rules reported **HB 580** has been recommitted to the Committee on Judiciary for study of legal implications.

The Committee on Rules reported **HB 378** has been recommitted to the Committee on Business Organizations and Professions for further study.

The Committee on Health and Welfare reported **HB 587** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 587, AN ACT relating to the treatment of pulmonary fungus disorders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 215 is created to read as follows:

Any tuberculosis sanatorium created under the provisions of KRS 215.080 to 215.390 is authorized to accept and treat patients having histoplasmosis or other pulmonary fungus diseases insofar as permitted by available facilities not fully utilized in the treatment of tuberculosis patients.

Calendar

HB 426, HB 511, HB 533, HB 546, SB 90, SB 135, HB 473 with Committee Amendment attached thereto, **HB 614, HB 622, HB 664, HB 672, SB 114, and SR 16** taken from the Calendar and ordered read at length for the second time. Representative Swinford moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Van Horn moved that **HB 586** be recommitted to the Committee on Counties and Special Districts. Agreed.

Representative Quickert moved that **SB 135** be substituted for **HB 386**. Rejected.

The Speaker assumed the Chair.

Orders of the Day

HB 304 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that consideration of **HB 304** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 386 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved that **HB 386** be placed upon its passage.

Representative DeMarcus moved the adoption of the following Floor Amendment No. 1 to **HB 386**:

Amend printed copy of House Bill 386, following line 20, to add the following,

"Section 5. A new section of KRS Chapter 344 is created to read as follows:

Under no circumstances shall a child be discriminated against because of his residence or geographic location in the Commonwealth with reference to his attendance at a public school."

Representative Quickert moved that the rules be suspended for the purpose of substituting **SB 135** for **HB 386**.

Representative Quickert moved that consideration of **HB 386** be deferred and that it retain its position in Orders of the Day. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 65** has been examined and found correctly enrolled. **HB 65** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 65 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

Representative Swinford moved that consideration of **SB 87**, **HB 96** with Committee Amendment attached thereto, **HB 166**, **HB 476**, **HB 397**, and **HB 314** with Committee Substitute attached thereto, be deferred and that they retain their position in Orders of the Day. Agreed.

HB 441, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freeman moved the adoption of the Committee Amendment No. 1 to **HB 441**. Agreed.

Representative Freeman moved that **HB 441** as amended be placed upon its passage.

On the roll call the vote was yeas 83-Adams, Arnold, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Wells, G. White, J. White, Whitfield. Nays 1-Harris.

HB 441 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 441** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 640**, **HJR 24**, **HB 21** with Committee Amendment and Committee Substitute attached thereto, **HB 170** with Committee Substitute attached thereto, **HB 176** with Committee Substitute attached thereto, **HB 180** with Committee Substitute attached thereto, and **HB 253** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 414, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of the Committee Amendment No. 1 to **HB 414**. Agreed.

Representative Kenton moved that **HB 414** as amended be placed upon its passage.

On the roll call the vote was yeas 85-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Smith, Stephens, Stone, Swinford, Thomas, Troop, Turner, Van Horn,

Vincent, Watkins, J. White, Whitfield, Wible. Nays 0.

Representative Kenton moved that the vote by which **HB 414** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 443 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the following Floor Amendment No. 1 to **HB 443**:

Amend printed copy of House Bill 443, page 1, line 3,

By deleting the brackets around the subsection number "(1)"

On page 1, line 18, by deleting the bracket before the subsection number "(2)"

On page 1, line 19, by deleting after the word "than" the word and number "two (2)" and inserting in lieu thereof the word and number "three (3)"

On page 2, line 3, by deleting after the word "than" the word "two" and inserting in lieu thereof the word "three"

On page 2, line 4, by deleting the number "(2)" and inserting in lieu thereof the number "(3)"

On page 2, line 4, by deleting after the period the bracket "]"

Agreed.

Representative Arnold moved that **HB 443** as amended be placed upon its passage.

On the roll call the vote was yeas 77-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Clapp, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kidd, King, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McBrayer, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 443 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 443** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 180, with Committee Substitute No. 2 attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the Committee Substitute No. 2 to **HB 180**. Agreed.

Representative Blandford moved that **HB 180**, by way of Committee Substitute No. 2, be placed upon its passage.

On the roll call the vote was yeas 68-Adams, Arnold, Bennett, Blandford, Blume, Blythe, Brewer, R. Brown, Burch, Clapp, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Head, Holbrook, Hopkins, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lindsay, Little, Loudon, Mann, Mason, May, McBee, McGill, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Sale, Sharpe, Siemens, Smith, Stephens, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, Wible. Nays 9-Benson, Denham, Harris, Hellard, Lewis, McBrayer, Stewart, Stone, Whitfield.

HB 180, by way of Committee Substitute, was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 180**, by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 491 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reynolds moved the adoption of the Committee Amendment No. 1 to **HB 491**. Agreed.

Representative Reynolds moved that **HB 491** as amended be placed upon its passage.

On the roll call the vote was yeas 79-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Brewer, R. Brown, Chandler, Clapp, Crupper, Davis, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Freeman, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hislope, Holbrook, Holloway, Hughes, Hurst, Isler, Kafoglis, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible. Nays 3-Blume, Blythe, Denham.

HB 491 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 491** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that consideration of **HB 493**, with Committee Amendment attached thereto, **HB 496**, and **HB 537** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 541, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Whitfield moved the adoption of the Committee Amendment No. 1 to **HB 541**. Agreed.

Representative Whitfield moved the adoption of the Committee Amendment No. 2 to **HB 541**. Agreed.

Representative Whitfield moved that **HB 541** as amended be placed upon its passage.

On the roll call the vote was yeas 77-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Chandler, Clapp, Crupper, Davis, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Holbrook, Holloway, Hopkins, Hughes, Isler, Kafoglis, Karem, Kenton, Kidd, King, Lewis, Lindsay, Little, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Reynolds, Richardson, Roberts, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 4-Blythe, DeMarcus, Denham, Turner.

HB 541 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 541** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 603 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 603** be placed upon its passage.

On the roll call the vote was yeas 88-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Blythe, Bowles, R. Brown, Bruce, Burch, Chandler, Clapp, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Head, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Turner, Van Horn, Vincent, Watkins, Wells, G. White, J. White, Whitfield, Wible. Nays 0.

HB 603 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 603** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 608 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 608** be placed upon its passage.

On the roll call the vote was yeas 75-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blume, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, DeMarcus, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Isler, Kareem, Kenton, Kidd, King, Lewis, Little, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Rattliff, Reynolds, Roberts, Robinson, Romines, Sale, Schmaedecke, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Troop, Turner, Van Horn, Vincent, Wells, G. White, Whitfield, Wible. Nays 6-Hancock, Kafoglis, Richardson, Thomas, Watkins, J. White.

HB 608 was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 608** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 639, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stephens moved the adoption of the Committee Substitute to **HB 639**. Agreed.

Representative Stephens moved the adoption of the following Floor Amendment No. 1 to **HB 639**:

Amend printed copy of House Bill 639, page 1, line 17,

By adding the following:

“(5) It shall be unlawful for employees covered by this Act to strike.”

Agreed.

Representative Stephens moved that **HB 639**, by way of Committee Substitute as amended, be placed upon its passage.

Representative King moved that **HB 639**, by way of Committee Substitute, be sent to the Committee on Appropriations and Revenue.

On the roll call the vote was yeas 30-Adams, Arnold, Bowles, Bruce, Clapp, Davis, Dawahare, Denham, Foster, Guenther, Hardin, Head, Hislope, Holbrook, Hughes, King, May, McBee, Nett, Pearman, Quickert, Robinson, Sale, Schmidt, Smith, Swinford, Troop, Turner, Watkins, Wells. Nays 48-Bennett, Benson,

Beshear, Blandford, Blume, Brewer, R. Brown, Chandler, DeMarcus, Dietz, Donnermeyer, Dunn, Givhan, Harris, Hellard, Hopkins, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Little, Mason, Maynard, McBrayer, McGill, Morgan, Overstreet, Paxton, Priddy, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Sharpe, Siemens, Stephens, Stewart, Stone, Thomas, Van Horn, G. White, J. White, Whitfield, Wible.

The motion that **HB 639**, by way of Committee Substitute, be sent to the Committee on Appropriations and Revenue was rejected.

On the roll call the vote was yeas 60-Bennett, Benson, Beshear, Blandford, Blume, Brewer, R. Brown, Chandler, Davis, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Givhan, Hancock, Harris, Hislope, Holbrook, Holloway, Hopkins, Isler, Kafoglis, Kareem, Kenton, Kidd, Kleier, Lewis, Lindsay, Little, Mason, Maynard, McBee, McBrayer, McGill, Morgan, O'Brien, Overstreet, Paxton, Priddy, Rattliff, Reynolds, Richardson, Roberts, Romines, Schmaedecke, Schmidt, Sharpe, Siemens, Stephens, Stewart, Stone, Swinford, Thomas, Van Horn, Vincent, Watkins, G. White, J. White, Wible. Nays 28-Adams, Blythe, Bowles, Bruce, Clapp, Dawahare, Denham, Foster, Graves, Hardin, Head, Hellard, Hughes, Hurst, King, Loudon, Mann, May, Nett, Pearman, Quickert, Robinson, Sale, Smith, Troop, Turner, Wells, Whitfield.

HB 639, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stephens moved that the vote by which **HB 639**, by way of Committee Substitute as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SR 34, SB 99, SB 177, SB 186, SB 191, SB 219, HR 29** with Amendment, **HB 24, HB 36, HB 87, HB 88, HB 251, and HB 316.**

The Speaker Pro Tempore assumed the Chair.

Orders of the Day (continued)

HB 650 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBrayer moved that **HB 650** be placed upon its passage.

On the roll call the vote was yeas 81-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Lewis, Lindsay, Loudon, Mason, May, Maynard, McBee, McBrayer, McGill, Morgan, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Sale, Schmaedecke, Schmidt, Siemens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HB 650 was passed and the title agreed to.

Representative McBrayer moved that the vote by which **HB 650** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 50 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HCR 50** be placed upon its passage.

On the roll call the vote was yeas 79-Adams, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Holbrook, Holloway, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mann, Mason, May, Maynard, McBee, McBrayer, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Rattliff, Reynolds, Richardson, Roberts, Robinson, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, J. White, Whitfield, Wible, Yates. Nays 0.

HCR 50 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HCR 50** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 112 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Swinford moved that **SB 112** be placed upon its passage.

On the roll call the vote was yeas 80-Adams, Bennett, Benson, Beshear, Blandford, Blythe, Bowles, Brewer, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Dawahare, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Hellard, Hislope, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Loudon, Mann, Mason, May, Maynard, McBrayer, McGill, Morgan, Nett, O'Brien, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Roberts, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 1-Holbrook.

SB 112 was passed and the title agreed to.

Representative Swinford moved that the vote by which **SB 112** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 172 taken from Orders of the Day and ordered read at length for the third time. Representative Swinford moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Quickert moved that **SB 172** be placed upon its passage.

On the roll call the vote was yeas 76-Bennett, Benson, Beshear, Blandford, Bowles, R. Brown, Bruce, Burch, Chandler, Clapp, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Freeman, Gay, Givhan, Graves, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Hopkins, Hughes, Hurst, Isler, Kafoglis, Karem, Kenton, Kidd, King, Kleier, Lewis, Lindsay, Mann, Mason, May, McBee, McBrayer, McGill, Nett, O'Brien, Overstreet, Pearman, Paxton, Priddy, Quickert, Reynolds, Richardson, Robinson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, Whitfield, Wible, Yates. Nays 0.

SB 172 was passed and the title agreed to.

Representative Quickert moved that the vote by which **SB 172** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Blandford moved that the House concur in the following Senate Amendment to **HB 26**:

Amend printed copy of House Bill 26 as follows:

On page 3, line 25, delete after "by" and before "any" the following: "[

On page 3, line 25, insert after "district" and before "," the following: "[

On page 3, line 26, insert after "department" and before "or" the following: ""]"

On page 3, line 26, strike after the first period the following: ""] *the district.*"

Agreed.

Representative Blandford moved that **HB 26** as amended be placed upon its passage.

On the roll call the vote was yeas 71-Adams, Bennett, Benson, Beshear, Blandford, Bowles, R. Brown, Burch, Chandler, Crupper, Davis, Denham, Dietz, Donnermeyer, Dunn, Foster, Gay, Givhan, Graves, Guenther, Hancock, Hardin, Harris, Head, Hellard, Hislope, Holbrook, Holloway, Hughes, Hurst, Isler, Kafoglis, Kareem, Kenton, Kidd, King, Kleier, Lindsay, Loudon, Mann, Mason, May, McBee, McBrayer, McGill, Nett, O'Brien, Pearman, Paxton, Richardson, Romines, Sale, Schmaedecke, Schmidt, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Turner, Van Horn, Vincent, Watkins, Wells, J. White, Whitfield, Wible, Yates. Nays 0.

HB 26 as amended was passed and the title agreed to.

Representative Swinford moved that the vote by which **HB 26** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Swinford moved that the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, Posting of Bills and Resolutions for Consideration, and Report of Committees. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: **HB 750.**

Education: **HB 768.**

State Government: **HB 771.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 708, HB 750, HB 345, HB 684.**

Education: **HB 768.**

Cities: **HB 706, HB 722, HB 723, HB 735, HB 742, HB 744, HB 735.**

Elections and Constitutional Amendments: **HB 326, HB 692, HB 638, HB 711, HB 710.**

State Government: **HB 602, HB 678, HB 713, HB 530, HB 482, HB 771, SB 181.**

Highways and Traffic Safety: **HB 659, HB 716, HR 74.**

Introduction of Bills and Resolutions

HB 752, by Representative King: AN ACT changing the classification of the city of Taylor Mill, in Kenton County.

HB 753, by Representatives O'Brien, Burch, Chandler, Denham, Dunn and McGill: AN ACT relating to hunting and fishing licenses.

HB 754, by Representative Isler: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 755, by Representative Foster: AN ACT relating to mineral interests.

HB 756, by Representative Richardson: AN ACT relating to water districts.

HB 757, by Representative Benson: AN ACT relating to applications for licenses to traffic in alcoholic beverages.

HB 758, by Representative Benson: AN ACT to prohibit discrimination in employment of persons having controllable maladies.

HB 759, by Representative Denham: AN ACT changing the classification of the City of Washington in Mason County.

HB 760, by Representative Holloway: AN ACT relating to programs dealing with the treatment of persons suffering from hemophilia.

HB 761, by Representatives Hellard, Benson, Hancock, Kafoglis and Kenton: AN ACT relating to state personnel.

HB 762, by Representative Beshear: AN ACT relating to bail bondsmen.

HB 763, by Representative Beshear: AN ACT relating to bail bonds.

HB 764, by Representative Karem: AN ACT relating to state personnel.

HB 765, by Representative Adams: AN ACT relating to state legislative districts.

HB 766, by Representative Adams: AN ACT relating to public records.

HB 767, by Representative Dunn: AN ACT relating to the licensing of motor vehicles.

HB 768, by Representatives Holloway, Morgan and Sale: AN ACT relating to school eye safety.

HB 769, by Representatives Holbrook and Quickert: AN ACT relating to involuntary dissolution of non-profit corporations.

HB 770, by Representatives Holbrook and Quickert: AN ACT relating to notaries public.

HB 771, by Representative Paxton: AN ACT relating to the Legislative Research Commission.

HB 772, by Representative Benson: AN ACT relating to wages and hours.

HB 773, by Representatives Pearman and Watkins: AN ACT relating to juveniles.

HB 774, by Representatives Bennett and Priddy: AN ACT relating to unemployment insurance.

HB 775, by Representative Quickert: AN ACT relating to delinquent taxes in cities of the first class.

HB 776, by Representatives Crupper, Hancock and G. White: AN ACT relating to public employees' retirement systems.

HB 777, by Representatives Holloway and Siemens: AN ACT relating to Workmen's Compensation.

HR 76, by Representatives Richardson, Denham and G. White: A RESOLUTION memorializing the United States Congress to repeal Public Law 92-603 establishing the Professional Standards Service Review

Organization.

HJR 77, by Representative Richardson: A JOINT RESOLUTION directing a study of potable water needs in the Commonwealth of Kentucky.

HJR 78, by Representatives Donnermeyer, Priddy and Schmidt: A JOINT RESOLUTION calling for the General Assembly to withdraw its ratification of a proposed amendment to the Constitution of the United States, relative to equal rights for men and women.

HCR 79, by Representative Robinson: A CONCURRENT RESOLUTION requesting the United States Congress to create a system whereby all Federal District Judges and Supreme Court Justices must be evaluated and reconfirmed every eight (8) years.

Report of Committees

The Committee on Judiciary reported **HB 232**, with Committee Substitute attached thereto, and **HB 515**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 232, AN ACT relating to the Kentucky Penal Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 500 is established and a new section thereof created to read as follows:
This Act shall be known as the Kentucky Penal Code.

Section 2. A new section of KRS Chapter 500 is created to read as follows:

(1) Common law offenses are abolished and no act or omission shall constitute a criminal offense unless designated a crime or violation under this code or another statute of this state.

(2) This provision shall not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

Section 3. A new section of KRS Chapter 500 is created to read as follows:

All provisions of this code shall be liberally construed according to the fair import of their terms, to promote justice, and to effect the objects of the law.

Section 4. A new section of KRS Chapter 500 is created to read as follows:

(1) The provisions of this code shall not apply to any offense committed prior to its effective date, notwithstanding the provisions of KRS 446.110. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted.

(2) This code shall not bar, suspend or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action.

(3) For purposes of this section, an offense shall be deemed to have been committed prior to the effective date of this code if any element of the offense occurred prior thereto.

Section 5. A new section of KRS Chapter 500 is created to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

Section 6. A new section of KRS Chapter 500 is created to read as follows:

(1) Except as otherwise provided in this section, a person may be convicted under the law of this state of an offense committed by his own conduct or the conduct of another for which he is legally accountable when:

(a) Either the conduct or the result which is an element of the offense occurs within this state; or

(b) Conduct occurring outside the state is sufficient to constitute an attempt to commit an offense within the state; or

(c) Conduct occurring outside the state is sufficient to constitute a conspiracy to commit an offense within the state and an overt act in furtherance of the conspiracy occurs within the state; or

(d) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this state; or

(e) The offense consists of the omission to perform a legal duty imposed by the law of this state regardless of where that person is when the omission occurs; or

(f) The offense is a violation of a statute of this state that expressly prohibits conduct outside the state.

(2) Subsection (1)(a) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside the state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within the state.

(3) When the offense is homicide, either the death of the victim or the bodily impact causing death constitutes a "result" within the meaning of subsection (1) (a). If the body of a homicide victim is found within this state, it shall be prima facie evidence that the result occurred within the state.

Section 7. A new section of KRS Chapter 500 is created to read as follows:

(1) The Commonwealth has the burden of proving every element of the case beyond a reasonable doubt, except as provided in subsection (3). This provision, however, does not require disproof of any element that is entitled a "defense," as that term is used in this code, unless the evidence tending to support the defense is of such probative force that in the absence of countervailing evidence the defendant would be entitled to a directed verdict of acquittal.

(2) No court can require notice of a defense prior to trial time.

(3) The defendant has the burden of proving an element of a case only if the statute which contains that element provides that the defendant may prove such element in exculpation of his conduct.

Section 8. A new section of KRS Chapter 500 is created to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association.

(2) "Crime" means a misdemeanor or a felony.

(3) "Dangerous instrument" means any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

(4) "Deadly weapon" means any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, billy, blackjack, or metal knuckles.

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the Department of Corrections may be imposed.

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association.

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law.

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015.

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve months can be imposed.

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state or by any law, order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.

(12) "Person" means human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.

(13) "Physical injury" means substantial physical pain or any impairment of physical condition.

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object.

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral.

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

Section 9. A new section of KRS Chapter 500 is created to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to the General Fund of:

(i) The state, if the trial is held in circuit court;

(ii) The county, if the trial is held in county or quarterly court;

(iii) The city, if the trial is held in police or municipal court;

(iv) The metropolitan government, if the trial is held in the court of such jurisdiction.

(c) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(d) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official state use. The expenses for keeping and transferring such property shall be paid by the state.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of:

(i) The state, if the trial is held in circuit court;

(ii) The county, if the trial is held in county or quarterly court;

(iii) The city, if the trial is held in police or municipal court;

(iv) The metropolitan government, if the trial is held in the court of such jurisdiction. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section;

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent.

Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Section 10. A new section of KRS Chapter 500 is created to read as follows:

The Commentary accompanying this code may be used as an aid in construing the provisions of this code.

Section 11. KRS Chapter 501 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter:

(1) "Culpable mental state" means "intentionally" or "knowingly" or "wantonly" or "recklessly," as these terms are defined in section 12 of this Act.

(2) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.

(3) "Voluntary act" means a bodily movement performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

(4) "Voluntary intoxication" means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he

introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime.

Section 12. A new section of Chapter 501 is created to read as follows:

The following definitions apply in the Kentucky Penal Code:

(1) "Intentionally" - A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause that result or to engage in that conduct.

(2) "Knowingly" - A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

(3) "Wantonly" - A person acts wantonly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

(4) "Recklessly" - A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Section 13. A new section of KRS Chapter 501 is created to read as follows:

A person is not guilty of a criminal offense unless:

(1) He has engaged in conduct which includes a voluntary act or the omission to perform a duty which the law imposes upon him and which he is physically capable of performing; and

(2) He has engaged in such conduct intentionally, knowingly, wantonly or recklessly as the law may require, with respect to each element of the offense, except that this requirement does not apply to any offense which imposes absolute liability, as defined in section 15 of this Act.

Section 14. A new section of KRS Chapter 501 is created to read as follows:

Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state.

Section 15. A new section of KRS Chapter 501 is created to read as follows:

A person may be guilty of an offense without having one of the culpable mental states defined in section 12 of this Act only when:

(1) The offense is a violation or a misdemeanor as defined in section 8 of this Act and no particular culpable mental state is included within the definition of the offense; or

(2) The offense is defined by a statute other than this Penal Code and the statute clearly indicates a legislative purpose to impose absolute liability for the conduct described.

Section 16. A new section of KRS Chapter 501 is created to read as follows:

(1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.

(2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:

(a) The actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or

(b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:

(a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or

(b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.

Section 17. A new section of KRS Chapter 501 is created to read as follows:

(1) A person's ignorance or mistake as to a matter of fact or law does not relieve him of criminal liability unless:

(a) Such ignorance or mistake negatives the existence of the culpable mental state required for commission of an offense; or

(b) The statute under which he is charged or a statute related thereto expressly provides that such ignorance or mistake constitutes a defense or exemption; or

(c) Such ignorance or mistake is of a kind that supports a defense of justification as defined in this Penal Code.

(2) When ignorance or mistake relieves a person of criminal liability under subsection (1) but he would be guilty of another offense had the situation been as he supposed it was, he may be convicted of that other offense.

(3) A person's mistaken belief that his conduct, as a matter of law, does not constitute an offense does not relieve him of criminal liability, unless such mistaken belief is actually founded upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

(a) A statute or other enactment; or

(b) A judicial decision, opinion or judgment; or

(c) An administrative order or grant of permission; or

(d) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the law defining the offense.

Section 18. A new section of Chapter 501 is created to read as follows:

Intoxication is a defense to a criminal charge only if such condition either;

(a) Negatives the existence of an element of the offense; or

(b) Is not voluntarily produced and deprives the defendant of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

Section 19. A new section of KRS Chapter 501 is created to read as follows:

(1) In any prosecution for an offense other than an intentional homicide, it is a defense that the defendant engaged in the proscribed conduct because he was coerced to do so by the use of, or a threat of the use of, unlawful physical force against him or another person which a person in his situation could not reasonably be expected to resist.

(2) The defense provided by subsection (1) is unavailable if the defendant intentionally or wantonly placed himself in a situation in which it was probable that he would be subjected to coercion.

Section 20. KRS Chapter 502 is established and a new section thereof created to read as follows:

(1) A person is guilty of an offense committed by an innocent or irresponsible person when he:

(a) Acts with the culpability that is sufficient for commission of that offense; and

(b) Causes that innocent or irresponsible person to engage in conduct constituting the offense.

(2) As used in this section, an "innocent or irresponsible person" includes anyone who is not guilty of the offense in question, despite his participation, because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conduct in question or the defendant's criminal purpose; or

(c) Any other factor precluding the mental state sufficient for the commission of the offense in question.

Section 21. A new section of KRS Chapter 502 is created to read as follows:

(1) A person is guilty of an offense committed by another person when, with the intention of promoting or facilitating the commission of the offense, he:

(a) Solicits, commands, or engages in a conspiracy with such other person to commit the offense; or

(b) Aids, counsels, or attempts to aid such person in planning or committing the offense; or

(c) Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(2) When causing a particular result is an element of an offense, a person who acts with the kind of culpability with respect to the result that is sufficient for the commission of the offense is guilty of that offense when he:

(a) Solicits or engages in a conspiracy with another person to engage in the conduct causing such result; or

(b) Aids, counsels, or attempts to aid another person in planning, or engaging in the conduct causing such result; or

(c) Having a legal duty to prevent the conduct causing the result, fails to make a proper effort to do so.

Section 22. A new section of KRS Chapter 502 is created to read as follows:

In any prosecution for an offense in which the criminal liability of the accused is based upon the conduct of another person pursuant to sections 20 and 21 of this Act, it is no defense that:

(1) Such other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense, or has an

immunity to prosecution or conviction for such conduct; or

(2) The offense in question, as defined, can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the offense in an individual capacity.

Section 23. A new section of KRS Chapter 502 is created to read as follows:

A person is not guilty under sections 20 or 21 of this Act for an offense committed by another person when:

(1) The offense is so defined that his conduct is inevitably incident to its commission; or

(2) Prior to the commission of the offense, he manifests a voluntary and complete renunciation, as defined in section 54 of this Act, of his criminal purposes and:

(a) Deprives his prior effort of its effectiveness in such commission; or

(b) Gives timely warning to the proper law enforcement authorities or otherwise makes proper effort to prevent commission of the offense.

Section 24. A new section of KRS Chapter 502 is created to read as follows:

(1) A corporation is guilty of an offense when:

(a) The conduct constituting the offense consists of a failure to discharge a specific duty imposed upon corporations by law; or

(b) The conduct constituting the offense is engaged in, authorized, commanded or wantonly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment in behalf of the corporation; or

(c) The conduct constituting the offense is engaged in by an agent of the corporation acting within the scope of his employment and in behalf of the corporation and:

(i) The offense is a misdemeanor or violation; or

(ii) The offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation:

(2) As used in this section:

(a) "Agent" means any officer, director, servant or employe of the corporation or any other person authorized to act in behalf of the corporation.

(b) "High managerial agent" means an officer of a corporation or any other agent of a corporation who has duties of such responsibility that his conduct reasonably may be assumed to represent the policy of the corporation.

Section 25. A new section of KRS Chapter 502 is created to read as follows:

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if the conduct were performed in his own name or behalf.

Section 26. KRS Chapter 503 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

(2) "Dwelling" means any building or structure, though movable or temporary which is for the time being either totally or partially the defendant's home or place of lodging.

(3) "Physical force" means force used upon or directed toward the body of another person and includes confinement.

Section 27. A new section of KRS Chapter 503 is created to read as follows:

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

Section 28. A new section of KRS Chapter 503 is created to read as follows:

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.

(2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

Section 29. A new section of KRS Chapter 503 is created to read as follows:

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law imposing a public duty or by a judicial decree.

(2) The justification afforded by subsection (1) applies when:

(a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

(b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

Section 30. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat.

Section 31. A new section of KRS Chapter 503 is created to read as follows:

Notwithstanding the provisions of Section 30 of this act the use of physical force by a defendant upon another person is not justifiable when:

(1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or

(2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or

(3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:

(a) His initial physical force was non-deadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or

(b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

Section 32. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and

(b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under sections 30 and 31 of this Act in using such protection.

(2) The use of deadly physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat; and

(b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under sections 30 and 31 of this Act in using such protection.

Section 33. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:

(a) The commission of criminal trespass or burglary in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or

(b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection

(1) only when the defendant believes that the person against whom such force is used is:

(a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

(b) Committing or attempting to commit a burglary of such dwelling; or

(c) Committing or attempting to commit arson of a dwelling or other building in his possession.

Section 34. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:

(a) Believes that such force is necessary to effect the arrest;

(b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and

(c) Believes the arrest to be lawful.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection

(1) only when:

- (a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and
- (b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and
- (c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

(3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

Section 35. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:

- (a) Committing suicide or inflicting serious physical injury upon himself; or
- (b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1)(b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.

(3) The limitations imposed on the justifiable use of force in self-protection by sections 30 and 31, for the protection of other by section 32, for the protection of property by section 33, and for the effectuation of an arrest or the prevention of an escape by section 34 of this Act apply notwithstanding the criminality of the conduct against which such force is used.

Section 36. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:

(a) The defendant believes that the force used is necessary to promote the welfare of a minor or incompetent person or, if the defendant's responsibility for the minor or incompetent person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class or other group; and

(b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.

(2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and:

(a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;

(b) The degree of force used is not forbidden by any statute governing the administration of the institution; and

(c) If deadly force is used, its use is otherwise justifiable under this code.

(3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.

(4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

(a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and

(b) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

Section 37. A new section of KRS Chapter 503 is created to read as follows:

(1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under sections 30 to 36 of this Act but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for

which wantonness or recklessness, as the case may be, suffices to establish culpability.

(2) When the defendant is justified under sections 30 to 36 of this Act in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

Section 38. KRS Chapter 504 is established and a new section thereof created to read as follows:

Lack of criminal responsibility because of immaturity is a defense to any prosecution for an offense. A person is immature for purposes of this section when, at the time of the conduct charged to constitute an offense, he was:

- (1) Less than sixteen years of age, unless the juvenile court has no jurisdiction over him; or
- (2) Less than 16 years of age, and the offense charged is a Class A felony and the court has entered an order waiving jurisdiction; or
- (3) Sixteen but less than eighteen years of age, unless the juvenile court:
 - (a) Has no jurisdiction over him; or
 - (b) Has entered an order waiving jurisdiction.

Section 39. A new section of KRS Chapter 504 is created to read as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

(2) As used in this chapter, the term "mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

(3) A defendant may prove mental disease or defect, as used in this section, in exculpation of criminal conduct.

Section 40. A new section of KRS Chapter 504 is created to read as follows:

(1) When a defendant is acquitted of an offense for lack of criminal responsibility by reason of mental disease or defect, as defined in section 39 of this Act, the court may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of KRS Chapter 202.

(2) To facilitate the procedure established in subsection (1), the court, if it has reasonable grounds to believe that the defendant will cause injury to himself or others if not immediately restrained, may order him to be hospitalized in a state hospital for a period not to exceed seven consecutive days. The order of commitment under this subsection shall be pursuant to and under the authority of KRS 202.027 and shall be subject to all of the provisions of that statute.

Section 41. A new section of KRS Chapter 504 is created to read as follows:

(1) No person who, as a result of mental disease or defect, lack capacity to appreciate the nature and consequences of the proceedings against him or to participate rationally in his own defense shall be tried, convicted or sentenced for the commission of an offense, so long as such incapacity endures.

(2) When a defendant is found to have a mental disease or defect, as described in subsection (1), the court may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of KRS Chapter 202.

Section 42. A new section of KRS Chapter 504 is created to read as follows:

(1) Evidence of mental disease or defect which is offered to show lack of criminal responsibility is not admissible unless the defendant files a written notice of his intention to rely on such defense at least 20 days prior to the day of trial or at such later time as the court may for good cause permit. Upon filing of such notice, the prosecution shall be granted reasonable time prior to trial to move for an examination of the defendant under subsection (2) and to prepare the case for the Commonwealth.

(2) Whenever the defendant has filed the notice required by subsection (1) or whenever there is reason to doubt his fitness to proceed, the court shall appoint at least one qualified psychiatrist to examine and report upon the mental condition of the defendant and, to accomplish this, may order the defendant to be committed to a state mental hospital for the purpose of an examination for a period of not more than ten days. A qualified psychiatrist retained by the defendant shall be permitted to witness and participate in the examination.

(3) As soon as practicable after the defendant has given notice of his intention to rely on the defense of mental disease or defect, but in any event no less than ten days before trial, except as provided otherwise by court for good cause shown, the prosecution shall file and serve upon the defendant the names and addresses of the witnesses the state proposes to offer in denial of the defendant's defense, along with any medical reports prepared by those witnesses in connection with the defendant's mental condition.

Section 43. KRS Chapter 505 is established and a new section thereof created to read as follows:

(1) A person is not guilty of an offense arising out of proscribed conduct when:

(a) He was induced or encouraged to engage in that conduct by a public servant or by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of criminal

prosecution; and

(b) At the time of the inducement or encouragement, he was not otherwise disposed to engage in such conduct.

(2) The relief afforded by subsection (1) is unavailable when:

(a) The public servant or the person acting in cooperation with a public servant merely affords the defendant an opportunity to commit an offense; or

(b) The offense charged has physical injury or the threat of physical injury as one of its elements and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.

(3) The relief provided a defendant by subsection (1) is a defense.

Section 44. A new section of KRS Chapter 505 is created to read as follows:

(1) When a single course of conduct of a defendant may establish the commission of more than one offense, he may be prosecuted for each such offense. He may not, however, be convicted of more than one offense when:

(a) One offense is included in the other, as defined in subsection (2); or

(b) Inconsistent findings of fact are required to establish the commission of the offenses, or

(c) The offense is designed to prohibit a continuing course of conduct and the defendant's course of conduct was uninterrupted by legal process, unless the law expressly provides that specific periods of such conduct constitute separate offenses.

(2) A defendant may be convicted of an offense that is included in any offense with which he is formally charged. An offense is so included when:

(a) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(b) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or

(c) It differs from the offense charged only in the respect that a lesser kind of culpability suffices to establish its commission; or

(d) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest suffices to establish its commission.

Section 45. A new section of KRS Chapter 505 is created to read as follows:

When a prosecution is for a violation of the same statutory provision and is based upon the same facts as a former prosecution, it is barred by the former prosecution under the following circumstances:

(1) The former prosecution resulted in:

(a) An acquittal, or

(b) A conviction which has not subsequently been set aside; or

(2) The former prosecution resulted in a determination by the court, which has not subsequently been set aside, that there was insufficient evidence to warrant a conviction; or

(3) The former prosecution was terminated by a final order or judgment, which has not subsequently been set aside, and which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

(4) The former prosecution was improperly terminated after the first witness was sworn but before findings were rendered by a trier of fact. Termination under either of the following circumstances is not improper;

(a) The defendant expressly consents to the termination or by motion for mistrial or in some other manner waives his right to object to the termination; or

(b) The trial court, in exercise of its discretion, finds that the termination is manifestly necessary.

Section 46. A new section of KRS Chapter 505 is created to read as follows:

Although a prosecution is for a violation of a different statutory provision from a former prosecution or for a violation of the same provision but based on different facts, it is barred by the former prosecution under the following circumstances:

(1) The former prosecution resulted in an acquittal, a conviction which has not subsequently been set aside, or a determination that there was insufficient evidence to warrant a conviction, and the subsequent prosecution is for:

(a) An offense of which the defendant could have been convicted at the first prosecution; or

(b) An offense involving the same conduct as the first prosecution, unless each prosecution requires proof of a fact not required in the other prosecution or unless the offense was not consummated when the former prosecution began; or

(2) The former prosecution was terminated by a final order or judgment which has not subsequently been set aside and which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or

(3) The former prosecution was improperly terminated, as that term is used in subsection (4) of Section 45 of this Act, and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated.

Section 47. A new section of KRS Chapter 505 is created to read as follows:

When conduct constitutes an offense within the concurrent jurisdiction of this state and of the United States or another state, a prosecution in such other jurisdiction is a bar to a subsequent prosecution in this state under the following circumstances:

(1) The former prosecution resulted in an acquittal, a conviction which has not subsequently been set aside, or a determination that there was insufficient evidence to warrant a conviction, and the subsequent prosecution is for an offense involving the same conduct unless:

(a) Each prosecution requires proof of a fact not required in the other prosecution; or

(b) The offense involved in the subsequent prosecution was not consummated when the former prosecution began; or

(2) The former prosecution was terminated in a final order or judgment which has not subsequently been set aside and which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution.

Section 48. A new section of KRS Chapter 505 is created to read as follows:

A prosecution is not barred, as provided in Sections 45, 46 and 47 of this Act if the former prosecution:

(a) Was procured by the defendant without the knowledge of the proper prosecuting officer and with the purpose of avoiding the sentence which otherwise might be imposed; or

(b) Was before a court which lacked jurisdiction over the defendant or the offense.

Section 49. KRS Chapter 506 is established and a new section thereof created to read as follows:

(1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he:

(a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or

(b) Intentionally does or omits to do anything which, under the circumstances as he believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.

(2) Conduct shall not be held to constitute a substantial step under subsection (1)(b) unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he is charged with attempting.

(3) A person is guilty of criminal attempt to commit a crime when he engages in conduct intended to aid another person to commit that crime, although the crime is not committed or attempted by the other person, provided that his conduct would establish complicity under Section 21 of this Act if the crime were committed by the other person.

(4) A criminal attempt is a:

(a) Class B felony when the crime attempted is a Class A felony or capital offense;

(b) Class C felony when the crime attempted is a Class B felony;

(c) Class A misdemeanor when the crime attempted is a Class C or D felony;

(d) Class B misdemeanor when the crime attempted is a misdemeanor.

Section 50. A new section of KRS Chapter 506 is created to read as follows:

(1) In any prosecution for criminal attempt to commit a crime, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant abandoned his effort to commit the crime and, if mere abandonment was insufficient to avoid the commission of the crime, took the necessary affirmative steps to prevent its commission.

(2) A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by:

(a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or

(b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

Section 51. A new section of KRS Chapter 506 is created to read as follows:

(1) A person is guilty of criminal solicitation when, with the intent of promoting or facilitating the commission of a crime, he commands or encourages another person to engage in specific conduct which would constitute that crime or an attempt to commit that crime or which would establish the other's complicity in its commission or attempted commission.

(2) A criminal solicitation is a:

(a) Class B felony when the crime solicited is a Class A felony or capital offense;

(b) Class C felony when the crime solicited is a Class B felony;

(c) Class A misdemeanor when the crime solicited is a Class C or D felony;

(d) Class B misdemeanor when the crime solicited is a misdemeanor.

Section 52. A new section of KRS Chapter 506 is created to read as follows:

(1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:

(a) Agrees with one or more persons that at least one of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or

(b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.

(2) A criminal conspiracy is a:

(a) Class B felony when the object of the conspiratorial agreement is a Class A felony;

(b) Class C felony when the object of the conspiratorial agreement is a Class B felony;

(c) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;

(d) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

Section 53. A new section of KRS Chapter 506 is created to read as follows:

(1) No person may be convicted of conspiracy to commit a crime unless an overt act in furtherance of the conspiracy is alleged and proved to have been committed by one of the conspirators.

(2) A person who conspires to commit more than one crime, all of which are the object of the same agreement or continuous conspiratorial relationship, is guilty of only one conspiracy. The classification of this crime under subsection (2) of section 52 of this Act shall be determined by the most serious offense which he is found guilty of conspiring to commit.

(3) If a person guilty of conspiracy, as defined by section 52 of this Act, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit the crime with the other person or persons, whether or not he knows their identity.

(4) No person may be convicted of conspiracy to commit a crime when an element of that crime is agreement with the person with whom he is alleged to have conspired or when that crime is so defined that his conduct is an inevitable incident to its commission.

Section 54. A new section of KRS Chapter 506 is created to read as follows:

(1) In any prosecution for criminal solicitation or criminal conspiracy in which the crime solicited or the crime contemplated by the conspiracy was not in fact committed, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant prevented the commission of the crime.

(2) A renunciation is not "voluntary and complete" within the meaning of this section when it is motivated in whole or in part by:

(a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or

(b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

Section 55. A new section of KRS Chapter 506 is created to read as follows:

(1) It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose; or

(c) Any other factor precluding the mental state required for the commission of the crime solicited.

(2) It is no defense to a prosecution for criminal conspiracy that a co-conspirator could not be guilty of the conspiracy or the crime contemplated by the conspiracy because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conspiracy or the conduct contemplated by the conspiracy or of the defendant's criminal purpose; or

(c) Any other factor precluding the mental state required for the commission of the conspiracy or the crime contemplated by the conspiracy.

(3) A defendant cannot be convicted of conspiracy if all of his co-conspirators have been acquitted or discharged under circumstances amounting to an acquittal.

Section 56. A new section of KRS Chapter 506 is created to read as follows:

(1) A person is guilty of criminal facilitation when, acting with knowledge that another person is committing or intends to commit a crime, he engages in conduct which knowingly provides such person with means or opportunity for the commission of the crime and which in fact aids such person to commit the crime.

(2) Criminal facilitation is a:

- (a) Class D felony when the crime facilitated is a Class A or Class B felony or capital offense;
- (b) Class A misdemeanor when the crime facilitated is a Class C or Class D felony;
- (c) Class B misdemeanor when the crime facilitated is a misdemeanor.

Section 57. A new section of KRS Chapter 506 is created to read as follows:

In any prosecution for criminal facilitation, it is no defense that:

(1) The person facilitated could not be guilty of the crime facilitated because of criminal irresponsibility or other legal incapacity or exemption, unawareness of the criminal nature of the conduct facilitated, or any other factor precluding the mental state required for commission of the crime facilitated; or

(2) The person facilitated has not been prosecuted for or convicted of the crime facilitated, or has been convicted of a different crime, or has an immunity to prosecution or conviction for such conduct; or

(3) The crime facilitated can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the crime in an individual capacity.

Section 58. A new section of KRS Chapter 506 is created to read as follows:

A person is not guilty of criminal facilitation when:

(1) The crime facilitated is so defined that his conduct is inevitably incident to its commission; or

(2) Prior to the commission of the crime facilitated he makes a substantial effort to prevent the commission of that crime.

Section 59. A new section of KRS Chapter 506 is created to read as follows:

(1) A person may not be convicted on the basis of the same course of conduct of both the actual commission of a crime and:

(a) A criminal attempt to commit that crime; or

(b) A criminal solicitation of that crime; or

(c) A criminal facilitation of that crime; or

(d) A conspiracy to commit that crime, except as provided in subsection (2) of this section.

(2) A person may be convicted on the basis of the same course of conduct of both the actual commission of a crime and a conspiracy to commit that crime when the conspiracy from which the consummated crime resulted had as an objective of the conspiratorial relationship the commission of more than one crime.

(3) A person may not be convicted of more than one of the offenses defined in sections 49, 51, 52 and 56 of this Act for a single course of conduct designed to consummate in the commission of the same crime.

Section 60. KRS Chapter 507 is established and a new section thereof created to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

Section 61. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a Class A felony, except that in the following situations it is a capital offense:

(a) The defendant's act of killing was intentional and was for profit or hire;

(b) The defendant's act of killing was intentional, and occurred during the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree;

(c) The defendant's act of killing was intentional and the defendant was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

(d) The defendant's act of killing was intentional and the death was caused through use of a destructive device, as defined in KRS 237.030(1); or

(e) The defendant's act or acts of killing were intentional and resulted in multiple deaths.

Section 62. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of section 61 of this Act.

(2) Manslaughter in the first degree is a Class B felony:

Section 63. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person.

(2) Manslaughter in the second degree is a Class C felony.

Section 64. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of reckless homicide when, with recklessness he causes the death of another person.

(2) Reckless homicide is a Class D felony.

Section 65. KRS Chapter 508 is established and a new section thereof created to read as follows:

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B felony.

Section 66. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of assault in the second degree when:

(a) He intentionally causes serious physical injury to another person; or

(b) He intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(c) He wantonly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the second degree is a Class C felony.

Section 67. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of assault in the third degree when:

(a) He intentionally or wantonly causes physical injury to another person; or

(b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the third degree is a Class A misdemeanor.

Section 68. A new section of KRS Chapter 508 is created to read as follows:

(1) In any prosecution under sections 65, 66, or 67 of this Act in which intentionally causing physical injury or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of section 61 of this Act.

(2) An assault committed under the influence of extreme emotional disturbance is:

(a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; or

(b) A Class B misdemeanor when it would constitute an assault in the third degree if not committed under the influence of an extreme emotional disturbance.

Section 69. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of menacing when he intentionally places another person in reasonable apprehension of imminent physical injury.

(2) Menacing is a Class B misdemeanor.

Section 70. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.

(2) Wanton endangerment in the first degree is a Class D felony.

Section 71. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of wanton endangerment in the second degree when he wantonly engages in conduct which creates a substantial danger of physical injury to another person.

(2) Wanton endangerment in the second degree is a Class A misdemeanor.

Section 72. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of terroristic threatening when:

(a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or

(b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening is a Class A misdemeanor.

Section 73. KRS Chapter 509 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Relative" means a parent, ancestor, brother, sister, uncle or aunt.

(2) "Restrain" means to restrict another person's movements in such a manner as to cause a substantial interference with his liberty by moving him from one place to another or by confining him either in the place where the restriction commences or in a place to which he has been moved without consent. A person is moved or confined "without consent" when the movement or confinement is accomplished by physical force, intimidation, or deception, or by any means, including acquiescence of a victim, if he is under the age of sixteen years, or is substantially incapable of appraising or controlling his own behavior.

Section 74. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of unlawful imprisonment in the first degree when he knowingly and unlawfully restrains another person under circumstances which expose that person to a risk of serious physical injury.

(2) Unlawful imprisonment in the first degree is a Class D felony.

Section 75. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of unlawful imprisonment in the second degree when he knowingly and unlawfully restrains another person.

(2) Unlawful imprisonment in the second degree is a Class A misdemeanor.

Section 76. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or

(b) To accomplish or to advance the commission of a felony; or

(c) To inflict bodily injury or to terrorize the victim or another; or

(d) To interfere with the performance of a governmental or political function; or

(e) To use him as a shield or hostage.

(2) Kidnapping is a capital offense unless the defendant voluntarily releases the victim alive, substantially unharmed, and in a safe place prior to trial, in which case it is a Class B felony.

Section 77. A new section of KRS Chapter 509 is created to read as follows:

A person may not be convicted of unlawful imprisonment in the first degree, unlawful imprisonment in the second degree, or kidnapping when his criminal purpose is the commission of an offense defined outside this chapter and his interference with the victim's liberty occurs immediately with and incidental to the commission of that offense, unless the interference exceeds that which is ordinarily incident to commission of the offense which is the objective of his criminal purpose. The exemption provided by this section is not applicable to a charge of kidnapping that arises from an interference with another's liberty that occurs incidental to the commission of a criminal escape.

Section 78. A new section of KRS Chapter 509 is created to read as follows:

In any prosecution for unlawful imprisonment or kidnapping it is a defense that the defendant was a relative of the victim and his sole purpose was to assume custody of the victim.

Section 79. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any incompetent or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant or unless the defendant is a relative of the victim in which case it is a Class A misdemeanor.

Section 80. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of criminal coercion when with intent to compel another person to engage in or refrain from conduct, he unlawfully threatens to:

(a) Commit any crime; or

(b) Accuse anyone of a crime; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair another's credit or business repute; or

(d) Take or withhold action as an official or cause an official to take or withhold action.

(2) A defendant may prove in exculpation of criminal coercion committed under subsection (1)(b), (c) or (d) that he believed the accusation or secret to be true or the proposed official action justified and that his sole purpose was to compel or induce the victim to desist from misbehavior or to make good a wrong done by

him.

Section 81. KRS Chapter 510 is established and a new section thereof created to read as follows:
The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.
- (2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped.
- (3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses living apart under a decree of judicial separation are not married to one another for purposes of this chapter.
- (4) "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.
- (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent.
- (6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
- (7) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party.
- (8) "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

Section 82. A new section of KRS Chapter 510 is created to read as follows:

- (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- (2) Lack of consent results from:
 - (a) Forcible compulsion; or
 - (b) Incapacity to consent; or
 - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (3) A person is deemed incapable of consent when he is:
 - (a) Less than 16 years old; or
 - (b) Mentally defective; or
 - (c) Mentally incapacitated; or
 - (d) Physically helpless.

Section 83. A new section of KRS Chapter 510 is created to read as follows:

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen years old, mentally defective, mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

Section 84. A new section of KRS Chapter 510 is created to read as follows:

- (1) A person is guilty of rape in the first degree when:
 - (a) He engages in sexual intercourse with another person by forcible compulsion; or
 - (b) He engages in sexual intercourse with another person who is incapable of consent because he;
 - (i) Is physically helpless; or
 - (ii) Is less than twelve years old.
- (2) Rape in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

Section 85. A new section of KRS Chapter 510 is created to read as follows:

- (1) A person is guilty of rape in the second degree when, being eighteen years old or more, he engages in sexual intercourse with another person less than fourteen years old.
- (2) Rape in the second degree is a Class C felony.

Section 86. A new section of KRS Chapter 510 is created to read as follows:

- (1) A person is guilty of rape in the third degree when:
 - (a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally defective or mentally incapacitated; or
 - (b) Being twenty-one years old or more, he engages in sexual intercourse with another person less than sixteen years old.
- (2) Rape in the third degree is a Class D felony.

Section 87. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the first degree when:

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

(i) Is physically helpless; or

(ii) Is less than twelve years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

Section 88. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old.

(2) Sodomy in the second degree is a Class C felony.

Section 89. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally defective or mentally incapacitated; or

(b) Being twenty-one years old or more, he engages in deviate sexual intercourse with another person less than sixteen years old.

(2) Sodomy in the third degree is a Class D felony.

Section 90. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the fourth degree when he engages in deviate sexual intercourse with another person of the same sex.

(2) Notwithstanding the provisions of section 82 of this Act, consent of the other person shall not be a defense under this section, nor shall lack of consent of the other person be an element of this offense.

(3) Sodomy in the fourth degree is a Class A misdemeanor.

Section 91. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

(i) Is physically helpless; or

(ii) Is less than twelve years old.

(2) Sexual abuse in the first degree is a Class D felony.

Section 92. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally defective or mentally incapacitated; or

(b) He subjects another person who is less than fourteen years old to sexual contact.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 93. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the third degree when:

(a) He subjects another person to sexual contact without the latter's consent.

(b) In any prosecution under this section, it is a defense that:

(i) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen years old; and

(ii) The other person was at least fourteen years old; and

(iii) The actor was less than five years older than the other person.

(2) Sexual abuse in the third degree is a Class B misdemeanor.

Section 94. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) Sexual misconduct is a Class A misdemeanor.

Section 95. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of indecent exposure when, with intent to arouse or gratify sexual desire of himself or of any person other than his spouse, he exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm.

(2) Indecent exposure is a Class B misdemeanor.

Section 96. KRS Chapter 511 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft:

(a) Where any person lives; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation.

Each unit of a building consisting of two or more units separately secured or occupied is a separate building.

(2) "Dwelling" means a building which is usually occupied by a person lodging therein at night.

(3) "Night" means a period between thirty minutes after sunset and thirty minutes before sunrise.

(4) "Premises" includes the term "building" as defined herein and any real property.

Section 97. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of burglary in the first degree when he knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime and when:

(a) In effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the offense:

(i) Is armed with explosives or a deadly weapon; or

(ii) Causes physical injury to any person who is not a participant in the crime, or

(iii) Uses or threatens the use of a dangerous instrument against some person who is not a participant in the crime; or

(b) The entering or remaining occurs at night.

(2) Burglary in the first degree is a Class B felony.

Section 98. A new section of KRS 511 is created to read as follows:

(1) A person is guilty of burglary in the second degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime and when in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

(a) Is armed with explosives or a deadly weapon; or

(b) Causes physical injury to any person who is not a participant in the crime; or

(c) Uses or threatens the use of a dangerous instrument against any person who is not a participant in the crime.

(2) Burglary in the second degree is a Class C felony.

Section 99. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of burglary in the third degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime.

(2) Burglary in the third degree is a Class D felony.

Section 100. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of possession of burglar's tools when he possesses any tool, instrument or other thing adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking under circumstances which leave no reasonable doubt as to his:

(a) Intention to use the same in the commission of an offense of such character; or

(b) Knowledge that some other person intends to use the same in the commission of an offense of such character.

(2) Possession of burglar's tools is a Class A misdemeanor.

Section 101. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a dwelling.

(2) Criminal trespass in the first degree is a Class A misdemeanor.

Section 102. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the second degree when he knowingly enters or remains unlawfully in a building or upon premises as to which notice against trespass is given by fencing or other enclosure.

(2) Criminal trespass in the second degree is a Class B misdemeanor.

Section 103. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.

(2) Criminal trespass in the third degree is a violation.

Section 104. A new section of KRS Chapter 511 is created to read as follows:

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.

(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to

the public.

(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.

Section 105. KRS Chapter 512 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

Section 106. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the first degree when, having no right to do so or any reasonable ground to believe that he has such right, he intentionally defaces, destroys or damages any property causing pecuniary loss of \$1,000 or more.

(2) Criminal mischief in the first degree is a Class D felony.

Section 107. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the second degree when, having no right to do so or any reasonable ground to believe that he has such right, he intentionally or wantonly defaces, destroys or damages any property causing pecuniary loss of \$500 or more.

(2) Criminal mischief in the second degree is a Class A misdemeanor.

Section 108. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the third degree when:

(a) Having no right to do so or any reasonable ground to believe that he has such right, he intentionally defaces, destroys or damages any property; or

(b) He tampers with property so as knowingly to endanger the person or property of another.

(2) Criminal mischief in the third degree is a Class B misdemeanor.

Section 109. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal use of a noxious substance when he unlawfully deposits on the land or in the building or vehicle of another any stink bomb, device, or irritant with the intent to interfere with another's use of the land, building or vehicle.

(2) Criminal use of a noxious substance is a Class B misdemeanor.

Section 110. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal possession of a noxious substance when he possesses such substance under circumstances evincing an intent unlawfully to use or cause it to be used to inflict injury upon or to cause annoyance to a person, or to damage property of another, or to disturb the public peace.

(2) Criminal possession of a noxious substance is a Class B misdemeanor.

Section 111. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal littering when he:

(a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or

(b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or

(c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty feet of a public highway; or

(d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.

(2) Criminal littering is a Class B misdemeanor.

Section 112. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of unlawfully posting advertisements when, having no right to do so or any reasonable ground to believe he has such a right, he posts, paints or otherwise affixes to the property of another person or to public property any advertisement, poster, notice or other matter.

(2) Unlawfully posting advertisements is a violation.

Section 113. KRS Chapter 513 is established and a new section thereof created to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft:

(a) Where any person lives; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or

(c) Which is used for overnight accommodation of persons.

(2) Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building.

Section 114. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the first degree when he intentionally damages a building by starting a fire or causing an explosion, and when he knows or has reason to believe that another person, not an accomplice, is present in the building at the time.

(2) Arson in the first degree is a Class B felony.

Section 115. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the second degree when he intentionally damages a building by starting a fire or causing an explosion.

(2) In any prosecution under this section, it is a defense that:

(a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to the defendant's conduct; and

(b) The defendant's sole intent was to destroy or damage the building for a lawful purpose.

(3) Arson in the second degree is a Class C felony.

Section 116. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the third degree when he wantonly damages a building by intentionally starting a fire or causing an explosion.

(2) In any prosecution under this section, it is a defense that no person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to defendant's conduct.

(3) Arson in the third degree is a Class D felony.

Section 117. KRS Chapter 514 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(6) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(7) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(8) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

Section 118. A new section of KRS Chapter 514 is created to read as follows:

(1) It is a defense to prosecution for theft that the actor:

(a) Was unaware that the property or service was that of another; or

(b) Acted under a claim of right to the property or service involved or a claim that he had a right to acquire or dispose of it as he did; or

(c) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

(2) It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it involves the

property of the other spouse and only if it occurs after the parties have ceased living together.

Section 119. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 120. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by deception when he obtains property of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) Theft by deception is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 121. A new section of KRS Chapter 514 is created to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 122. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) Theft of services is a Class A misdemeanor unless the value of the service is \$100 or more, in which case it is a Class D felony.

Section 123. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of Subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

(i) He fails to account or pay upon lawful demand; or

(ii) An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 124. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
- (b) Accuse anyone of a criminal offense; or
- (c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is \$100 or more, in which case it is a Class D felony.

Section 125. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of the unauthorized use of an automobile or other propelled vehicle when he knowingly operates, exercises control over, or otherwise uses such vehicle without consent of the owner or person having legal possession thereof.

(2) Unauthorized use of automobiles or other propelled vehicle is a Class A misdemeanor.

Section 126. A new section of KRS 514 is created to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) Receiving stolen property is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 127. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of obscuring the identity of a machine when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any automobile or other propelled vehicle, machine, or electrical or mechanical device with intent to render it unidentifiable; or

(b) Possesses for the purpose of sale in the course of business any automobile or other propelled vehicle, machine, or electrical or mechanical device knowing that the serial number or other identification number or mark has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine or electrical or mechanical device held for sale in the course of business on which the serial number or any other distinguishing identification number or mark has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A report by the defendant to the police or other appropriate government agency prior to arrest or authorization of a warrant by a court is a defense to a charge of violating subsection (1)(b).

(4) Obscuring the identity of a machine is a Class A misdemeanor.

Section 128. KRS Chapter 515 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter, unless the context otherwise requires:

"Physical force" means force used upon or directed toward the body of another person.

Section 129. A new section of KRS Chapter 515 is created to read as follows:

(1) A person is guilty of robbery in the first degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft and when he:

- (a) Causes physical injury to any person who is not a participant in the crime; or
- (b) Is armed with a deadly weapon; or
- (c) Uses or threatens the immediate use of a dangerous instrument upon any person who is not a participant in the crime.

(2) Robbery in the first degree is a Class B felony.

Section 130. A new section of KRS Chapter 515 is created to read as follows:

- (1) A person is guilty of robbery in the second degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft.
- (2) Robbery in the second degree is a Class C felony.

Section 131. KRS Chapter 516 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Written instrument" means any instrument or article containing written or printed matter or its equivalent used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.
- (2) "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.
- (3) "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.
- (4) To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.
- (5) To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.
- (6) To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof.
- (7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.
- (8) "Coin machine" means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed:
 - (a) To receive a coin or bill or token made for the purpose; and
 - (b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or service.
- (9) "Slug" means an object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper substitute for a genuine coin, bill or token.
- (10) "Value of the slug" means the value of the coin, bill or token for which it is capable of being substituted.

Section 132. A new section of KRS Chapter 516 is created to read as follows:

- (1) A person is guilty of forgery in the first degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:
 - (a) Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental agency; or
 - (b) Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.
- (2) Forgery in the first degree is a Class C felony.

Section 133. A new section of KRS Chapter 516 is created to read as follows:

- (1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:
 - (a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or
 - (b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or
 - (c) A written instrument officially issued or created by a public office, public employee or governmental agency.

(2) Forgery in the second degree is a Class D felony.

Section 134. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of forgery in the third degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument.

(2) Forgery in the third degree is a Class A misdemeanor.

Section 135. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the first degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 132 of this Act.

(2) Criminal possession of a forged instrument in the first degree is a Class C felony.

Section 136. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 133 of this Act.

(2) Criminal possession of a forged instrument in the second degree is a Class D felony.

Section 137. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the third degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument.

(2) Criminal possession of a forged instrument in the third degree is a Class A misdemeanor.

Section 138. A new section of KRS Chapter 516 is created to read as follows:

A person may not be convicted of both forgery and criminal possession of a forged instrument with respect to the same instrument.

Section 139. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of possession of a forgery device when he:

(a) Makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed or adapted for use in forging written instruments; or

(b) Makes or possesses with knowledge of its character any device, apparatus, equipment or article capable of or adaptable to use in forging written instruments with intent to use it himself or to aid or permit another to use it for purposes of forgery.

(2) Possession of a forgery device is a Class D felony.

Section 140. A new section of KRS Chapter 516 is created to read as follows:

Any forgery device which is made, possessed or used in violation of this chapter is forfeited to the state and shall be disposed of in accordance with Section 9 of this Act.

Section 141. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal simulation when:

(a) With intent to defraud, he makes or alters any object in such manner that it appears to have an antiquity, rarity, source or authorship which it does not in fact possess; or

(b) With knowledge of its character and with intent to defraud, he possesses an object so simulated.

(2) Criminal simulation is a Class A misdemeanor.

Section 142. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of unlawfully using slugs in the first degree when:

(a) He makes, possesses or disposes of slugs with intent to enable a person to insert, deposit or use them in a coin machine; and

(b) The value of such slugs exceeds \$100.

(2) Unlawfully using slugs in the first degree is a Class D felony.

Section 143. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of unlawfully using slugs in the second degree when:

(a) With intent to defraud the owner, licensee or lessee of a coin machine, he inserts, deposits or uses a slug in such machine; or

(b) He makes, possesses or disposes of a slug with intent to enable a person to insert, deposit or use it in a coin machine.

(2) Unlawfully using slugs in the second degree is a Class B misdemeanor.

Section 144. KRS Chapter 517 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(2) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(3) "Enterprise" means any entity of one or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental

activity.

(4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver and any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(5) "Misabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality or quantity.

Section 145. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of deceptive business practices when, in the course of engaging in a business, occupation or profession, he knowingly:

(a) Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; or

(b) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or

(c) Takes or attempts to take more than the represented quantity of any commodity, thing or service when as a buyer, agency or receiver he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing or service is determined; or

(d) Sells, offers or exposes for sale adulterated commodities; or

(e) Sells, offers or exposes for sale mislabeled commodities.

(2) Deceptive business practices is a Class A misdemeanor.

Section 146. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of false advertising when, in connection with the promotion of the sale of or to increase the consumption of property or services, he knowingly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

(2) False advertising is a Class A misdemeanor.

Section 147. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of bait advertising when in any manner, including advertising or other means of communication, he offers to the public or a substantial number of persons property or services as part of a scheme or plan with the intent not to sell or provide the advertised property or services:

(a) At the price at which he offered them; or

(b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(c) At all.

(2) Bait advertising is a Class A misdemeanor.

Section 148. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of falsifying business records when, with intent to defraud, he:

(a) Makes or causes a false entry to be made in the business records of an enterprise; or

(b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or

(c) Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or

(d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

(2) Falsifying business records is a Class A misdemeanor.

Section 149. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of defrauding secured creditors when he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with intent unlawfully to hinder enforcement of that interest.

(2) Defrauding secured creditors is a Class A misdemeanor.

Section 150. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of defrauding judgment creditors when he secretes, assigns, conveys or otherwise disposes of his property with intent to defraud a judgment creditor or to prevent that property from being subjected to payment of a judgment.

(2) Defrauding judgment creditors is a Class A misdemeanor.

Section 151. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of fraud in insolvency when, knowing that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, or that any other composition or liquidation for the benefit of creditors has been or is about to be made, he:

(a) Destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with intent to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

(b) Knowingly falsifies any writing or record relating to the property; or

(c) Knowingly misrepresents or refuses to disclose to a receiver or other person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor would be legally required to furnish to such administration.

(2) Fraud in insolvency is a Class A misdemeanor.

Section 152. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of issuing a false financial statement when, with intent to defraud, he:

(a) Knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of himself or of some other person and which is inaccurate in some material respect; or

(b) Represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to that person's financial condition or ability to pay, knowing the instrument to be materially inaccurate in that respect.

(2) Issuing a false financial statement is a Class A misdemeanor.

Section 153. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of receiving deposits in a failing financial institution when, as an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent.

(2) A financial institution is insolvent within the meaning of this section when it is unable to pay its obligations in the ordinary or usual course of business for any reason.

(3) Receiving deposits in a failing financial institution is a Class D felony.

Section 154. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of misapplication of entrusted property when he applies or disposes of property that has been entrusted to him as a fiduciary, or property of the government or of a financial institution in a manner which he knows is unauthorized and involves substantial risk of loss or detriment to the owner of the property or to a person for whose benefit the property was entrusted.

(2) Misapplication of entrusted property is a Class A misdemeanor.

Section 155. KRS Chapter 518 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Event" means a sports contest to which the general public is not admitted without consideration.

(3) "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals that is viewed by the public.

(4) "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest.

(5) "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.

Section 156. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of commercial bribery when he:

(a) Offers, confers or agrees to confer any benefit upon any employee or agent without the consent of the latter's employer or principal with intent to influence his conduct contrary to his employer's or principal's best interests; or

(b) Offers, confers or agrees to confer any benefit upon any fiduciary without the consent of the latter's beneficiary with intent to influence him to act or conduct himself contrary to his fiduciary obligation.

(2) Commercial bribery is a Class A misdemeanor.

Section 157. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of receiving a commercial bribe when:

(a) As an employee or agent, and without the consent of his employer or principal, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his employer's or principal's best interest; or

(b) As a fiduciary, and without the consent of his beneficiary, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his fiduciary obligation.

(2) Receiving a commercial bribe is a Class A misdemeanor.

Section 158. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of sports bribery when he:

(a) Offers, confers or agrees to confer any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or

(b) Offers, confers or agrees to confer any benefit upon a sports official with intent to influence him to perform his duties improperly.

(2) Sports bribery is a Class D felony.

Section 159. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of receiving a sports bribe when:

(a) Being a sports participant, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or

(b) Being a sports official, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly.

(2) Receiving a sports bribe is a Class D felony.

Section 160. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of tampering with or rigging a sports contest when, with intent to influence the outcome of a sports contest, he:

(a) Tamper with any sports participant or sports official or with any animal other than a horse, equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules governing the sports contest in question; or

(b) Substitutes a sports participant, animal, equipment or other thing involved in the conduct or operation of a sports contest for the genuine person, animal or thing.

(2) Tampering with or rigging a sports contest is a Class A misdemeanor.

Section 161. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of ticket scalping when he intentionally sells or offers to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket, unless authorized by the issuer or by law.

(2) Ticket scalping is a violation.

Section 162. KRS Chapter 519 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves.

(2) "Public record" includes all official books, papers, exhibits or records created by or received and retained in any governmental office or agency.

(3) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employee; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

Section 163. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of obstructing governmental operations when he intentionally obstructs, impairs or hinders the performance of a governmental function by using or threatening to use violence, force or physical interference.

(2) This section shall not apply to:

(a) Any means of avoiding compliance with the law without affirmative interference with governmental functions; or

(b) The obstruction, impairment or hindrance of unlawful action by a public servant; or

(c) The obstruction, impairment or hindrance of an arrest.

(3) Obstructing governmental operations is a Class A misdemeanor.

Section 164. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of compounding a crime when:

(a) He solicits, accepts or agrees to accept any benefit upon an agreement or understanding that he will refrain from initiating a prosecution for a crime; or

(b) He confers, offers, or agrees to confer any benefit upon another person upon agreement or understanding that such other person will refrain from initiating a prosecution for a crime.

(2) In any prosecution under this section, it is a defense that the benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the

offense.

(3) Compounding a crime is a Class A misdemeanor.

Section 165. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of falsely reporting an incident when he:

(a) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, that deals with emergencies involving danger to life or property; or

(b) Reports to law enforcement authorities an offense or incident within their official concern knowing that it did not occur; or

(c) Furnishes law enforcement authorities with information allegedly relating to an offense or incident within their official concern when he knows he has no information relating to such offense or incident; or

(d) Knowingly gives false information to any law enforcement officer with intent to implicate another; or

(e) Initiates or circulates a report or warning of an alleged occurrence or impending occurrence of a fire or other emergency under circumstances likely to cause public inconvenience or alarm when he knows the information reported, conveyed or circulated is false or baseless.

(2) Falsely reporting an incident is a Class A misdemeanor.

Section 166. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of impersonating a public servant if he pretends to be a public servant with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant is a Class A misdemeanor.

Section 167. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of tampering with public records when:

(a) He knowingly makes a false entry in or falsely alters any public record; or

(b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise impairs the availability of any public records; or

(c) Knowing he lacks the authority to retain it, he refuses to deliver up a public record in his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes.

(2) Tampering with public records is a Class A misdemeanor.

Section 168. KRS Chapter 520 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order.

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail.

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein.

(4) "Detention facility" means any place used for the confinement of a person:

(a) Charged with or convicted of an offense; or

(b) Alleged or found to be delinquent; or

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes.

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that such departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

Section 169. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the first degree when he escapes from custody or a detention facility by the use of force or threat of force against another person.

(2) Escape in the first degree is a Class C felony.

Section 170. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the second degree when he escapes from a detention facility or, being charged with or convicted of a felony, he escapes from custody.

(2) Escape in the second degree is a Class D felony.

Section 171. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the third degree when he escapes from custody.

(2) Escape in the third degree is a Class B misdemeanor.

Section 172. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of promoting contraband in the first degree when:
 - (a) He knowingly introduces dangerous contraband into a detention facility; or
 - (b) Being a person confined in a detention facility, he knowingly makes, obtains or possesses dangerous contraband.

(2) Promoting contraband in the first degree is a Class D felony.

Section 173. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of promoting contraband in the second degree when:
 - (a) He knowingly introduces contraband into a detention facility; or
 - (b) Being a person confined in a detention facility, he knowingly makes, obtains or possesses contraband.

(2) Promoting contraband in the second degree is a Class A misdemeanor.

Section 174. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of bail jumping in the first degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a felony, he intentionally fails to appear at that time and place.

(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(3) Bail jumping in the first degree is a Class D misdemeanor.

Section 175. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of bail jumping in the second degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a misdemeanor, he intentionally fails to appear at that time and place.

(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(3) Bail jumping in the second degree is a Class A misdemeanor.

Section 176. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be acting under color of his official authority, from effecting an arrest of the actor or another by:

- (a) Using or threatening to use physical force or violence against the peace officer or another; or

- (b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.

(2) Resisting arrest is a Class A misdemeanor.

Section 177. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of resisting an order to stop a motor vehicle when he knowingly fails to obey a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) Resisting an order to stop a motor vehicle is a Class A misdemeanor.

Section 178. A new section of KRS Chapter 520 is created to read as follows:

- (1) For the purposes of sections 179 and 180 of this Act, a person renders assistance to another when he:

- (a) Harbors or conceals such person; or

- (b) Warns such person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with law; or

- (c) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

- (d) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person; or

- (e) Volunteers false information to a law enforcement officer; or

- (f) Suppresses by an act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of such person.

(2) In any prosecution for hindering prosecution or apprehension it is a defense that the accused is the spouse, parent, child, brother, sister, grandparent or grandchild of the person whose discovery or apprehension he sought to prevent.

Section 179. A new section of KRS Chapter 520 is created to read as follows:

- (1) A person is guilty of hindering prosecution or apprehension in the first degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another whom he knows is being sought in connection with the commission of a capital offense or Class A felony, he renders assistance to such

person.

(2) Hindering prosecution or apprehension in the first degree is a Class D felony.

Section 180. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of hindering prosecution or apprehension in the second degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another who is being sought in connection with the commission of a criminal offense, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the second degree is a Class A misdemeanor.

Section 181. KRS Chapter 521 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

Section 182. A new section of KRS Chapter 521 is created to read as follows:

(1) A person is guilty of bribery of a public servant when:

(a) He offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion or other action in his official capacity as a public servant; or

(b) While a public servant, he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced.

(2) It is a defense under this section if a person confers or agrees to confer any pecuniary benefit upon a public servant as a result of conduct of the public servant which constitutes extortion or coercion.

(3) It is no defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because he had not yet assumed office, lacked jurisdiction, or for any other reason.

(4) Bribery of a public servant is a Class D felony.

Section 183. A public servant is guilty of soliciting unlawful compensation when he requests a pecuniary benefit for the performance of an official action knowing that he was required to perform that action without compensation or at a level of compensation lower than that requested.

(2) Solicitation of unlawful compensation is a Class B misdemeanor.

Section 184. A new section of KRS Chapter 521 has been created to read as follows:

(1) A person is guilty of unlawful compensation for assistance in public matters when:

(a) While a public servant, he solicits, accepts or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim or other transaction or proposal as to which he knows that he is likely to have an official discretion to exercise; or

(b) He offers, pays or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction with knowledge that acceptance by the public servant is unlawful.

(2) Unlawful compensation for assistance in public matters is a Class A misdemeanor.

Section 185. KRS Chapter 522 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

Section 186. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the first degree is a Class A misdemeanor.

Section 187. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of official misconduct in the second degree when he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the second degree is a Class B misdemeanor.

Section 188. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action; or

(c) Aids another to do any of the foregoing.

(2) Misuse of confidential information is a Class D felony.

Section 189. KRS Chapter 523 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Material false statement" means any false statement, regardless of its admissibility under the rules of evidence which could have affected the outcome of the proceeding. Whether a falsification is material in a given factual situation is a question of law.

(2) "Oath" means an affirmation or other legally authorized manner of attesting to the truth of a statement. A written statement shall be treated as if made under oath when:

(a) The statement was made on or pursuant to a form bearing notice, authorized by law, that false statements made therein are punishable; or

(b) The document recites that the statement was made under oath, and;

(i) The declarant was aware of such recitation at the time he made the statement;

(ii) The declarant intended that the statement be represented as sworn; and

(iii) The statement was in fact so represented by its delivery or utterance with the signed jurat of an officer, authorized to administer oaths appended thereto.

(3) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(4) "Required or authorized by law" means the oath is provided for by statute, regulation, court rule, or otherwise by law.

(5) "Statement" means any representation, but includes a representation of opinion, belief or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

(6) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employee; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

Section 190. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of perjury in the first degree when he makes a material false statement, which he does not believe, in any official proceeding under an oath required or authorized by law.

(2) Perjury in the first degree is a Class D felony.

Section 191. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of perjury in the second degree when he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law with the intent to mislead a public servant in the performance of his official functions.

(2) Perjury in the second degree is a Class A misdemeanor.

Section 192. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of false swearing when he makes a false statement which he does not believe under oath required or authorized by law.

(2) False swearing is a Class B misdemeanor.

Section 193. A new section of KRS Chapter 523 is created to read as follows:

(1) When a person has made inconsistent statements under oath, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single charge alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(2) The highest offense of which a person may be convicted in such an instance shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two statements, the person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two statements, the person may only be convicted of false swearing.

Section 194. A new section of KRS Chapter 523 is created to read as follows:

In any prosecution for perjury or false swearing, except prosecution based upon inconsistent statements pursuant to section 193 of this Act, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

Section 195. A new section of KRS Chapter 523 is created to read as follows:

No prosecution shall be brought under this chapter when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

Section 196. A new section of KRS Chapter 523 is created to read as follows:

It is not a defense to prosecution under this chapter that:

(1) The oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement; or

(2) The court in which the acts constituting the offense were committed lacked jurisdiction over the person of the accused or the subject matter.

Section 197. A new section of KRS Chapter 523 is created to read as follows:

No person shall be guilty of an offense under this chapter if he retracted the falsification in the course of the proceeding in which it was made before such false statement substantially affected the proceeding and before it became manifest that its falsity was or would be exposed.

Section 198. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of unsworn falsification to authorities when, with an intent to mislead a public servant in the performance of his duty, he:

(a) Makes a material false written statement, which he does not believe, in an application for any pecuniary or other benefit or in a record required by law to be submitted to any governmental agency; or

(b) Submits or invites reliance on any writing which he knows to be a forged instrument, as defined in subsection (7) of section 131 of this Act; or

(c) Submits or invites reliance on any sample, specimen, map, boundary mark or other object he knows to be false.

(2) Unsworn falsification to authorities is a Class B misdemeanor.

Section 199. KRS Chapter 524 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Juror" means a person who is a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(2) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(3) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

Section 200. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribing a witness when he offers, confers or agrees to confer any pecuniary benefit upon a witness or a person he believes may be called as a witness in any official proceeding with intent to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to avoid legal process summoning him to testify; or
- (c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a Class D felony.

Section 201. A new section of KRS Chapter 524 is created to read as follows:

(1) A witness or a person believing he may be called as a witness in any official proceeding is guilty of bribe receiving by a witness when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that:

- (a) His testimony will thereby be influenced; or
- (b) He will attempt to avoid legal process summoning him to testify; or
- (c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribe receiving by a witness is a Class D felony.

Section 203. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of intimidating a witness when, by use of a threat directed to a witness or a person he believes may be called as a witness in any official proceeding, he:

- (a) Influences, or attempts to influence, the testimony of that person; or
- (b) Induces, or attempts to induce, that person to avoid legal process summoning him to testify; or
- (c) Induces, or attempts to induce, that person to absent himself from an official proceeding to which he has been legally summoned.

(i) "Threat" as used in this section means any threat proscribed in Section 124 of this Act.

(ii) Intimidating a witness is a Class D felony.

Section 203. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

- (a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or
- (b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.

(2) Tampering with a witness is a Class A misdemeanor.

Section 204. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribing a juror when he offers, confers or agrees to confer any pecuniary benefit upon a juror with intent to influence the juror's vote, opinion, decision or other action as a juror.

(2) Bribing a juror is a Class D felony.

Section 205. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribe receiving by a juror when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, decision or other action as a juror will thereby be influenced.

(2) Bribe receiving by a juror is a Class D felony.

Section 206. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of intimidating a juror when, by use of a threat, he influences or attempts to influence a juror's vote, opinion, decision or other action as a juror.

(2) "Threat" as used in this section means any threat proscribed in section 124 of this Act.

(3) Intimidating a juror is a Class D felony.

Section 207. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class A misdemeanor.

Section 208. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he:

- (a) Destroys, mutilates, conceals, removes or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or
- (b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered.

(2) Tampering with physical evidence is a Class D felony.

Section 209. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of simulating legal process when he delivers or causes to be delivered to another a request for the payment of money on behalf of a creditor knowing that in form and substance it simulates any legal process issued by any court of this state.

(2) Simulating legal process is a Class B misdemeanor.

Section 210. KRS Chapter 525 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover his action.

(2) "Public" means affecting or likely to affect a substantial group of persons.

(3) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

(4) "Transportation facility" means any conveyance, premises or place used for or in connection with public passenger transportation by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

(5) "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

Section 211. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of riot in the first degree when:

(a) He knowingly participates in a riot; and

(b) In the course of and as a result of such riot a person other than one of the participants suffers physical injury or substantial property damage occurs.

(2) Riot in the first degree is a Class D felony.

Section 212. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of riot in the second degree when he knowingly participates in a riot.

(2) Riot in the second degree is a Class A misdemeanor.

Section 213. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of inciting to riot when he incites or urges five or more persons to create or engage in a riot.

(2) Inciting to riot is a Class A misdemeanor.

Section 214. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of unlawful assembly when:

(a) He assembles with five or more persons for the purpose of engaging or preparing to engage with them in a riot; or

(b) Being present at an assembly which either has or develops such a purpose, he remains there with intent to advance that purpose.

(2) Unlawful assembly is a Class B misdemeanor.

Section 215. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of disorderly conduct when in a public place and with intent to cause public inconvenience, annoyance or alarm, or wantonly creating a risk thereof, he:

(a) Engages in fighting or in violent, tumultuous or threatening behavior; or

(b) Makes unreasonable noise; or

(c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) Disorderly conduct is a Class B misdemeanor.

Section 216. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of harassment when with intent to harass, annoy or alarm another person he:

(a) Strikes, shoves, kicks or otherwise subjects him to physical contact or attempts or threatens to do the same; or

(b) In a public place, makes an offensively coarse utterance, gesture or display, or addresses abusive language to any person present; or

(c) Follows a person in or about a public place or places; or

(d) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(2) Harassment is a violation.

Section 217. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of harassing communications when with intent to harass, annoy or alarm another person he:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm; or

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Section 218. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia; or

(b) Loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution; or

(c) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(d) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(e) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services or for the purpose of entertaining persons by singing, dancing or playing any musical instrument;

(2) Loitering is a violation.

Section 219. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of alcohol, or a controlled substance, or other intoxicating substance, not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

Section 220. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of desecration of venerated objects when he intentionally:

(a) Desecrates any public monument or object or place of worship or burial; or

(b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects is a Class A misdemeanor.

Section 221. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities.

(2) Abuse of a corpse is a Class A misdemeanor.

Section 222. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of cruelty to animals when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to cruel mistreatment through abandonment or by other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills or injures any animal belonging to another person without legal privilege or consent of the owner.

(2) Cruelty to animals is a Class B misdemeanor.

Section 223. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of obstructing a highway or other public passage when having no legal privilege to do so he, alone or with other persons, intentionally or wantonly renders any highway or public passage impassable without unreasonable inconvenience or hazard.

(2) No person shall be convicted under this section solely because of a gathering of persons to hear him speak or otherwise communicate or solely because of being a member of such a gathering.

(3) An order to disperse issued by a peace officer or other public servant engaged in executing or enforcing the law and addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall not be deemed lawful if the obstruction can be readily remedied by police control of the size or location of the gathering.

(4) Obstructing a highway or other public passage is a Class B misdemeanor.

Section 224. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of disrupting meetings and processions when with intent to prevent or disrupt a lawful meeting, procession or gathering, he does any act tending to obstruct or interfere with it physically or makes any utterance, gesture or display designed to outrage the sensibilities of the group.

(2) Disrupting meetings and processions is a Class B misdemeanor.

Section 225. KRS Chapter 526 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter, unless the context otherwise requires:

"Eavesdrop" means to overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.

Section 226. A new section of KRS 526 is created to read as follows:

(1) A person is guilty of eavesdropping when he intentionally uses any device to eavesdrop, whether or not he is present at the time.

(2) Eavesdropping is a Class D felony.

Section 227. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of installing an eavesdropping device when he intentionally installs or places such a device in any place with the knowledge that it is to be used for eavesdropping.

(2) Installing an eavesdropping device is a Class D felony.

Section 228. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of possession of an eavesdropping device when he possesses any electronic, mechanical or other device designed or commonly used for eavesdropping with intent to use that device to eavesdrop or knowing that another intends to use that device to eavesdrop.

(2) Possession of an eavesdropping device is a Class A misdemeanor.

Section 229. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of tampering with private communications when knowing that he does not have the consent of the sender or receiver, he unlawfully:

(a) Opens or reads a sealed letter or other sealed private communication; or

(b) Obtains in any manner from an employee, officer or representative of a communications common carrier information with respect to the contents or nature of a communication.

(2) The provisions of this section do not apply to the censoring of sealed letters or sealed communications for security purposes in official detention or penal facilities.

(3) Tampering with private communications is a Class A misdemeanor.

Section 230. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of divulging illegally obtained information when he knowingly uses or divulges information obtained through eavesdropping or tampering with private communications or learned in the course of employment with a communications common carrier engaged in transmitting the message.

(2) Divulging illegally obtained information is a Class A misdemeanor.

Section 231. A new section of KRS Chapter 526 is created to read as follows:

A person is not guilty under this chapter when he:

(1) Inadvertently overhears the communication through a regularly installed telephone party line or on a telephone extension but does not divulge it; or

(2) Is an employee of a communications common carrier who, while acting in the course of his employment, hears a communication transmitted through the facilities of his employer but does not divulge it.

Section 232. A new section of KRS Chapter 526 is created to read as follows:

Any electronic, mechanical or other device designed or commonly used for eavesdropping which is possessed or used in violation of this chapter, or forfeited to the state and shall be disposed of in accordance with Section 9 of this Act.

Section 233. KRS Chapter 527 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.

(2) "Firearm" means any weapon which will expel a projectile by the action of an explosive.

Section 234. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers and other public officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

Section 235. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of defacing a firearm when he intentionally defaces a firearm.

(2) Defacing a firearm is a Class A misdemeanor.

Section 236. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.

(2) Possession of a defaced firearm is a Class A misdemeanor.

Section 237. A new section of KRS Chapter 527 is created to read as follows:

Upon the conviction of any person for the violation of any law of this Commonwealth in which a deadly weapon was used, displayed or unlawfully possessed by such person the court shall order the weapon forfeited to the state and sold, destroyed or otherwise disposed of in accordance with Section 9 of this Act.

Section 238. KRS Chapter 528 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity"--A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the establishment of the particular game, contest, scheme, device or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device (including but not limited to roulette wheels, gambling tables and similar devices) designed and manufactured primarily for the use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(c) But, the following are not to be considered gambling devices within this definition:

(i) Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

(ii) Electro-mechanical pinball machines specially designed, constructed, set up and kept to be played for amusement only; provided any such pinball machine shall be made to receive and react to the deposit of one five or ten cent coin and no more during the course of a game; provided the ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any such pinball machine shall be the right to play one or more additional games immediately on the same device at no further cost; provided the maximum number of free games that can be won, registered, or accumulated at one time in operation of any such pinball machine shall not exceed thirty free games; provided any such pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released; and provided any such pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums or property of any kind for scores, combinations or free games obtained in playing such pinball machine in which such person has an interest as owner, operator, keeper or otherwise.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

(i) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one or more of which are to be designated the winning ones; and

(ii) The winning chances are to be determined by a drawing or by some other method based upon the element of chance; and

(iii) The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in subsection (5)(a) is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity"--A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

Section 239. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by:

(a) Engaging in bookmaking to the extent that he employs or utilizes three or more persons in a bookmaking activity and receives or accepts in any one day bets totaling more than \$500; or

(b) Receiving in connection with a lottery or mutuel scheme or enterprise:

(i) Money or written records from a person other than a player whose chances or plays are represented by such money or records; or

(ii) More than \$500 in any one day of money played in the scheme or enterprise; or

(c) Setting up and operating a gambling device.

(2) Promoting gambling in the first degree is a Class D felony.

Section 240. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of promoting gambling in the second degree when he knowingly advances or profits from unlawful gambling activity.

(2) Promoting gambling in the second degree is a Class A misdemeanor.

Section 241. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of conspiracy to promote gambling when he conspires to advance or profit from gambling activity.

(2) "Conspire" means to engage in activity constituting a criminal conspiracy as defined in Section 52 of this Act.

(3) Conspiracy to promote gambling is a Class D felony.

Section 242. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article of a kind commonly used:

(a) In the operation or promotion of a bookmaking scheme or enterprise and constituting, reflecting or representing bets totaling more than \$500; or

(b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise and constituting, reflecting or representing more than 500 plays or chances therein.

(2) It shall be a defense to any prosecution under this section that:

(a) The writing, paper, instrument or article possessed by the defendant constituted, reflected or represented bets of the defendant himself in a number not exceeding ten; or

(b) The writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.

(3) Possession of gambling records in the first degree is a Class D felony.

Section 243. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of gambling records in the second degree when, with knowledge of the contents thereof he possesses any writing, paper instrument or articles of a kind commonly used:

- (a) In the operation or promotion of a bookmaking scheme or enterprise; or
 - (b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise.
- (2) It shall be a defense to any prosecution under this section that:

(a) The writing, paper, instrument, or article possessed by the defendant constituted, reflected, or represented bets of the defendant himself in a number not exceeding ten; or

(b) The writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.

(3) Possession of gambling records in the second degree is a Class A misdemeanor.

Section 244. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of permitting gambling when, having possession or control of premises which he knows are being used to advance gambling activity, he fails to halt or abate or attempt to halt or abate such use within a reasonable period of time.

(2) Permitting gambling is a Class B misdemeanor.

Section 245. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses a gambling device or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing that it is to be used in the advancement of unlawful gambling activity.

(2) Possession of a gambling device is a Class A misdemeanor.

Section 246. A new section of KRS Chapter 528 is created to read as follows:

(1) Proof of possession of any gambling device or any gambling record specified in sections 242, 243 and 245 of this Act is prima facie evidence of possession thereof with knowledge of its character or contents.

(2) In any prosecution under this chapter in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation or evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of this chapter is alleged to have been committed shall be admissible in evidence and shall constitute prima facie proof of the occurrence of the event.

Section 247. A new section of KRS Chapter 528 is created to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with Section 9 of this Act.

Section 248. KRS Chapter 529 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing prostitution"--A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

(2) "Profiting from prostitution"--A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity.

(3) "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs.

Section 249. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Prostitution is a Class B misdemeanor.

Section 250. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the first degree when he knowingly advances prostitution by compelling a person by force or intimidation to engage in prostitution or profits from such coercive conduct by another.

(2) Promoting prostitution in the first degree is a Class C felony.

Section 251. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the second degree when he knowingly:

(a) Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes; or

(b) Advances or profits from prostitution of a person less than eighteen years old.

(2) Promoting prostitution in the second degree is a Class D felony.

Section 252. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the third degree when he knowingly advances or profits from prostitution.

(2) Promoting prostitution in the third degree is a Class A misdemeanor.

Section 253. A new section of KRS Chapter 529 is created to read as follows:

(1) No person shall be convicted of prostitution solely on the uncorroborated testimony of a patron.

(2) No person shall be convicted of promoting prostitution solely on the uncorroborated testimony of a person whose prostitution activity he is alleged to have advanced or from whose prostitution activity he is alleged to have profited.

Section 254. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of permitting prostitution when, having possession or control of premises which he knows or has reasonable cause to know are being used for prostitution purposes, he fails to make reasonable and timely effort to halt or abate such use.

(2) Permitting prostitution is a Class B misdemeanor.

Section 255. KRS Chapter 530 is established and a new section thereof is created to read as follows:

(1) A person is guilty of bigamy when he:

(a) Purports to marry another person knowing he has a husband or wife or knowing the other person has a husband or wife; or

(b) Cohabits in this state after a bigamous marriage in another state.

(2) It shall be a defense to bigamy that the accused believed he was legally eligible to remarry.

(3) Bigamy is a Class D felony.

Section 256. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of incest when he has sexual intercourse with a person whom he knows to be an ancestor, descendant, brother or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.

(2) Incest is a Class C felony.

Section 257. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of concealing the birth of an infant when he conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.

(2) Concealing the birth of an infant is a Class A misdemeanor.

Section 258. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of abandonment of a minor when, as a parent, guardian or other person legally charged with the care or custody of a minor less than twelve years old, he deserts the minor in any place under circumstances endangering his life or health and with intent to abandon him.

(2) Abandonment of a minor is a Class D felony.

Section 259. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of nonsupport when he persistently fails to provide support which he can provide and which he knows he has a duty to provide to a minor or incompetent child, indigent spouse or indigent parent.

(2) Nonsupport is a Class A misdemeanor.

Section 260. A new section of KRS Chapter 530 is created to read as follows:

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.

(2) Endangering the welfare of a minor is a Class A misdemeanor.

Section 261. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of unlawful transaction with a minor when:

(a) He knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) He knowingly induces, assists, or causes a minor to engage in illegal sexual activity, illegal controlled substances activity, illegal gambling activity or any other criminal activity; or

(c) He knowingly induces, assists or causes a minor to become a habitual truant; or

(d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor is a Class A misdemeanor.

Section 262. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of endangering the welfare of an incompetent person when he knowingly acts in a manner which results in an injury to the physical or mental welfare of a person who is unable to care for himself because of mental disease or defect.

(2) Endangering the welfare of an incompetent person is a Class A misdemeanor.

Section 263. KRS Chapter 531 is established and a new section thereof is created to read as follows:

As used in this chapter:

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters.

(4) "Minor" means a person under eighteen years of age.

Section 264. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state; or

(b) Brings or causes to be brought into this state; or

(c) In this state, he:

(i) Prepares, or

(ii) Publishes, or

(iii) Prints, or

(iv) Exhibits, or

(v) Distributes, or

(vi) Offers to distribute, or

(vii) Has in his possession with intent to distribute, exhibit or offer to distribute, any obscene matter.

(2) Distribution of obscene matter is a Class B misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this chapter, in which case it shall be a Class A misdemeanor.

Section 265. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly:

(a) Sends or causes to be sent; or

(b) Exhibits; or

(c) Distributes, or offers to distribute,

obscene material to a minor.

(2) Distribution of obscene materials to minors is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or of Section 266 of this Act, in which case it shall be a Class D felony.

Section 266. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of using minors to distribute obscene material when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

(a) Hires; or

(b) Employs; or

(c) Uses,

a minor to do or assist in doing any of the acts prohibited by section 264 of this Act.

(2) Using minors to distribute obscene material is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or section 265 of this Act, in which case it shall be a Class D felony.

Section 267. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of advertising obscene material when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of obscene matter.

(2) Advertising obscene material is a Class B misdemeanor.

Section 268. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of promoting sale of obscenity when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter reasonably believed by the purchaser or consignee to be obscene, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of obscenity is a Class B misdemeanor for the first offense; a Class A misdemeanor for the second offense; and a Class D felony for each subsequent offense.

Section 269. A new section of KRS Chapter 531 is created to read as follows:

The prohibitions and penalties imposed in this chapter shall not extend to persons having a bona fide scientific, educational, governmental, or other similar justification for conduct which would, except for such justification, be criminal under this chapter.

Section 270. A new section of KRS Chapter 531 is created to read as follows:

(1) The jury, or the court, if a jury trial is waived, shall render a general verdict, and shall also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the _____ (title or description of matter) to be obscene," or, "We find the _____ (title or description of matter) not to be obscene," as they may find each item is or is not obscene.

(2) Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the attorney general, commonwealth's attorney, county attorney, city attorney or their authorized assistants, or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

Section 271. KRS Chapter 532 is established and a new section thereof is created to read as follows:

(1) Felonies are classified, for the purpose of sentencing, into five categories:

- (a) Capital offenses;
- (b) Class A felonies;
- (c) Class B felonies;
- (d) Class C felonies; and
- (e) Class D Felonies.

Section 272. A new section of KRS Chapter 532 is created to read as follows:

(1) Any offense defined outside this code for which a law outside this code provides a sentence to a term of imprisonment in the state penitentiary or reformatory for:

- (a) At least one but not more than 5 years shall be deemed a Class D felony;
- (b) At least 5 but not more than 10 years shall be deemed a Class C felony;
- (c) At least 10 but not more than 20 years shall be deemed a Class B felony;
- (d) For 20 or more years shall be deemed a Class A felony.

(2) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum which falls between ninety days and one year shall be deemed a Class A misdemeanor.

(3) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum of less than ninety days shall be deemed a Class B misdemeanor.

(4) Any offense for which a law outside this code provides a sentence to a fine but no term of imprisonment shall be deemed a violation.

Section 273. A new section of KRS Chapter 532 is created to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with section 276 of this Act.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

- (a) A term of imprisonment authorized by this chapter; or
- (b) A fine authorized by KRS Chapter 534; or
- (c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

Section 274. A new section of KRS Chapter 532 is created to read as follows:

When a person is convicted of an offense, other than a capital offense, the court, where authorized by KRS Chapter 533, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence

of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

Section 275. A new section of KRS Chapter 532 is created to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation and giving due consideration to a written report of such investigation.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The sources of confidential information need not, however, be disclosed.

Section 276. A new section of KRS Chapter 532 is created to read as follows:

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to section 277 of this Act.

(2) The authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty years nor more than life imprisonment;

(b) For a Class B felony, not less than ten years nor more than twenty years;

(c) For a Class C felony, not less than five years nor more than ten years; and

(d) For a Class D felony, not less than one year nor more than five years.

(3) The actual time of release within the maximum established by subsection (1), or as modified pursuant to section 277 of this Act, shall be determined under procedures established elsewhere by law.

Section 277. A new section of KRS Chapter 532 is created to read as follows:

(1) When a sentence of imprisonment for a felony is fixed by a jury pursuant to section 276 of this Act and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that the maximum term fixed by the jury is unduly harsh, the court may modify that sentence and fix a maximum term within the limits provided in section 276 of this Act for the offense for which the defendant presently stands convicted.

(2) When a sentence of imprisonment for a Class D felony is fixed by a jury pursuant to section 276 of this Act and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose such a sentence, the court may sentence the defendant to a definite term of imprisonment in a county or a regional correctional institution for a term of one year or less.

Section 278. A new section of KRS Chapter 532 is created to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under section 276 of this Act for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (4) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (4) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender is a person who is more than twenty-one years of age and who stands convicted of a felony after having previously been convicted of two or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the defendant was imprisoned under sentence for such conviction prior to commission of the present felony.

(3) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(4) A person who is found to be a persistent felony offender shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment with life imprisonment as the maximum; or

(b) If the offense for which he presently stands convicted is a Class B felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(c) If the offense of which he presently stands convicted is a Class C or Class D felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

Section 279. A new section of KRS Chapter 532 is created to read as follows:

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

(a) For a Class A misdemeanor, the term shall not exceed twelve months; and

(b) For a Class B misdemeanor, the term shall not exceed ninety days.

Section 280. A new section of KRS Chapter 532 is created to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

Section 281. A new section of KRS Chapter 532 is created to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by section 280 of this Act for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the Board of Parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution.

Section 282. A new section of KRS Chapter 532 is created to read as follows:

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of such aggregate term.

(3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of such sentence shall be considered for all purposes as time served in prison.

(4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) if the defendant had been convicted of that charge shall be credited as provided in subsection (3) against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.

(5) If a person serving a sentence of imprisonment escapes from custody, the escape interrupts the sentence. The interruption continues until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

Section 283. KRS Chapter 533 is established and a new section thereof is created to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death or life imprisonment without privilege of parole may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 284. A new section of KRS Chapter 533 is created to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance or direction that the probation service can provide. Conditions of probation shall be imposed as provided in section 285 of this Act, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in section 285 of this Act, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(3) The period of probation or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five years upon conviction of a felony nor two years upon conviction of a misdemeanor. Upon completion of the probationary period or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation or conditional discharge has not been revoked.

(4) Notwithstanding the fact that a sentence to probation or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 285. A new section of KRS Chapter 533 is created to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

- (a) Avoid injurious or vicious habits;
- (b) Avoid persons or places of disreputable or harmful character;
- (c) Work faithfully at suitable employment as far as possible;
- (d) Make reparation or restitution, in an amount to be determined by the court, to an aggrieved party for damage or loss caused by his offense;
- (e) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
- (f) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
- (g) Support his dependents and meet other family responsibilities;
- (h) Pay the cost of the proceeding as set by the court;
- (i) Remain within a specified area;
- (j) Report to the probation officer as directed;
- (k) Permit the probation officer to visit him at his home or elsewhere; and
- (l) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(4) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement pursuant to this provision shall not exceed six months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in custody under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment.

Section 286. A new section of KRS Chapter 533 is created to read as follows:

(1) A period of probation or conditional discharge commences on the day it is imposed. Multiple periods, whether imposed at the same or different times, run concurrently.

(2) If a court, as authorized by law, determines that a defendant violated the conditions of his probation or conditional discharge but reinstates probation or conditional discharge, the period between the date of the violation and the date of restoration of probation or conditional discharge is not computed as a part of the period of probation or conditional discharge.

(3) A sentence of probation or conditional discharge shall run concurrently with any federal or state jail, prison or parole term for another offense to which the defendant is or becomes subject during the period, unless such sentence of probation or conditional discharge is revoked. Such revocation must take place prior to parole under or expiration of the sentence of imprisonment or within ninety days after the grounds for revocation come to the attention of the Department of Corrections, whichever occurs first.

Section 287. A new section of KRS Chapter 533 is created to read as follows:

(1) At any time before the discharge of the defendant or the termination of the sentence of probation or conditional discharge:

(a) The court may summon the defendant to appear before it or may issue a warrant for his arrest upon a finding of probable cause to believe that he has failed to comply with a condition of the sentence; or

(b) A probation officer, or peace officer acting at the direction of a probation officer, who sees the defendant violate the terms of his probation or conditional discharge may arrest the defendant without a warrant.

(2) The court may not revoke or modify the conditions of a sentence of probation or conditional discharge except after a hearing with defendant represented by counsel and following a written notice of the grounds for revocation or modification.

Section 288. KRS Chapter 534 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

Section 289. A new section of KRS Chapter 534 is created to read as follows:

(1) When a defendant is sentenced to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

(2) When a defendant is sentenced to pay a fine, an alternative sentence of imprisonment that is to be served in the event the fine is not paid shall not be imposed at the same time. The response of a court to nonpayment of a fine shall be determined only after the fine has not been paid, and only as provided in section 293 of this Act.

Section 290. A new section of KRS Chapter 534 is created to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony and granted a sentence of probation or conditional discharge may be sentenced to pay a fine in an amount not to exceed \$10,000 or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of such fines shall not exceed \$10,000 or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) This section does not apply to a corporation.

Section 291. A new section of KRS Chapter 534 is created to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether or not the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury then the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony may be sentenced to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, \$500; or

(b) For a Class B misdemeanor, \$250; or

(c) For a violation, \$250.

(3) This section does not apply to a corporation.

Section 292. A new section of KRS Chapter 534 is created to read as follows:

(1) For an offense defined in this code a corporation convicted of an offense may be sentenced to pay a fine in an amount not to exceed:

(a) For a felony of any class, \$20,000; or

(b) For a Class A misdemeanor, \$10,000; or

(c) For a Class B misdemeanor, \$5,000; or

(d) For a violation, \$500; or

(e) Double the amount of the defendant's gain from commission of the offense, whichever is the greater.

(2) For an offense defined outside this code for which no special corporate fine is specified, a corporation convicted of an offense may be sentenced to pay a fine in an amount not to exceed:

(a) \$20,000, if the offense when committed by an individual has an authorized term of imprisonment in the penitentiary; or

(b) \$10,000, if the offense when committed by an individual has an authorized term of imprisonment of not less than ninety days nor more than twelve months; or

(c) \$5,000, if the offense when committed by an individual has an authorized term of imprisonment of less than ninety days; or

(d) \$500, if the offense when committed by an individual has no authorized term of imprisonment; or

(e) Double the amount of the defendant's gain from commission of the offense, whichever is the greater.

(3) For an offense defined outside this code for which a special corporate fine is specified, a corporation convicted of the offense may be sentenced to pay a fine in the amount specified in the law that defines the offense.

Section 293. A new section of KRS Chapter 534 is created to read as follows:

(1) When an individual sentenced to pay a fine defaults in the payment of the fine or any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

(2) Following an order to show cause under subsection (1), unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court and not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the

defendant imprisoned for a term not to exceed:

(a) Six months, if the fine was imposed for the conviction of a felony; or
 (b) One-third of the maximum authorized term of imprisonment for the offense committed, if the fine was imposed for conviction of a misdemeanor; or

(c) Ten days, if the fine was imposed for conviction of a violation.

(3) If the default in payment of a fine is determined to be excusable under the standards set forth in subsection (2), the court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way. In addition the court may enter an order compelling the defendant to work for a department of local government, if:

(a) Such department, through appropriate authority, approves the defendant's employment;

(b) Such department will pay the defendant for his work at a reasonable rate of compensation;

(c) The defendant is not otherwise gainfully employed nor medically disabled; and

(d) Such employment will not cause economic hardship to the defendant or his dependents.

In the event such an order is entered the court shall designate the portion of the defendant's compensation that is to be credited toward payment of his fine, which in no event shall be more than forty percent of gross compensation.

(4) When a fine is imposed on a corporation, it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections (1) and (2).

(5) Following a default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth.

Section 294. KRS 2.060 is amended to read as follows:

No person shall in any manner, for exhibition or display, place or cause to be placed upon, or expose or cause to be exposed to public view any flag, standard, colors or ensign of the United States upon which has been placed, or to which is attached, appended, affixed or annexed, any word, figure, mark, picture, design or drawing, or advertisement of any nature; nor shall any person manufacture, sell, expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose, any article of merchandise, or a receptacle for merchandise or thing for carrying or transporting merchandise upon which has been placed a representation of any such flag, standard, colors or ensign, to advertise, call attention to, decorate, mark or distinguish the article on which so placed [; nor shall any person publicly mutilate, deface, defile, or defy, trample upon or cast contempt, either by word or act, upon any such flag, standard, colors or ensign].

Section 295. KRS 21.140 is amended to read as follows:

(1) A defendant may appeal as a matter of right to the Court of Appeals from a final judgment of the circuit court imposing a sentence of confinement or imprisonment of twelve (12) months or more.

(2) The Court of Appeals may grant an appeal on a motion by a defendant from a final judgment of the circuit court imposing a sentence of confinement of less than twelve (12) months or a fine or both. The court may also grant an appeal on a motion by a defendant from a final judgment of a county judge on a prosecution transferred to the county judge in accordance with KRS 23.145.

(3) *An appeal may be taken to the Court of Appeals by the state from an adverse decision or ruling of the circuit judge and such an appeal shall not suspend the proceedings in the case. An appeal by the state shall be taken in the manner provided in the Rules of Criminal Procedure except that the record on appeal shall be transmitted by the clerk of the circuit court to the Attorney General. If the Attorney General is satisfied, after inspecting the record, that error has been committed to the prejudice of the state, upon which it is important to the correct and uniform administration of the law that the Court of Appeals should decide, he may deliver the record to the Clerk of the Court of Appeals within the time prescribed by the Rules of Criminal Procedure.*

[(3) An appeal may be taken to the Court of Appeals by the commonwealth from an adverse decision or ruling of the circuit judge and such an appeal shall not suspend the proceedings in the case. An appeal by the commonwealth shall be taken in the manner provided in the Rules of Criminal Procedure except that the record on appeal shall be transmitted by the clerk of the circuit court to the attorney general. If the attorney general is satisfied, after inspecting the record, that error has been committed to the prejudice of the commonwealth, upon which it is important to the correct and uniform administration of the law that the Court of Appeals should decide, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the Rules of Criminal Procedure.]

(4) *When an appeal is taken pursuant to subsection (3), the Court of Appeals, if the record so warrants, may reverse the decision of the circuit court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.*

(5) *An appeal may be taken to the circuit court by the prosecution from an adverse decision or ruling of a judge of the police, magistrate's, or county court on any question of law and such an appeal shall not*

suspend the proceedings in the case. Such appeal shall be taken in the manner provided in the Rules of Criminal Procedure. When an appeal is taken pursuant to this subsection, the circuit court, if the record so warrants, may reverse the decision of the lower court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.

Section 296. KRS 25.990 is amended to read as follows:

(1) Any justice who violates KRS 25.760, shall be fined ten dollars (\$10.00).

[(2) Any justice, recorder or deputy recorder in any county having a population of over 250,000 who violates any of the provisions of KRS 25.770 shall be confined in the penitentiary for not less than two (2) nor more than ten (10) years.]

(2)[(3)] Any justice who fails to keep the order book or execution book required by KRS 25.660 shall be fined not less than fifty (50) nor more than one hundred dollars (\$100).

Section 297. KRS 26.450 is amended to read as follows:

[(1) Except as otherwise provided by law, any person against whom a fine is imposed upon conviction of a misdemeanor in the police court of a city of the first class, or who is arrested under a capias pro fine for a violation of an ordinance of a city of the first class, shall, unless discharged by authority of law or by payment of such fine, be committed to the workhouse or county jail and shall be there detained, until the fine against him is paid or is satisfied by his earnings by compulsory work, in or out of the workhouse or county jail, at such wages as may be prescribed by statute or by ordinance.]

(1)[(2)] Except as otherwise provided by law, any person sentenced to imprisonment upon conviction of a misdemeanor in the police court of a city of the first class shall, unless discharged by authority of law, be committed to the workhouse or county jail and shall be there detained at hard labor in or out of the workhouse or county jail, if hard labor is imposed under subsection (3) of this section, until the sentence has been served.

(2)[(3)] When imprisonment is imposed by the judge or jury in the police court of a city of the first class, the judge or jury may direct whether or not the imprisonment shall be at hard labor, unless the statute imposing the penalty specifically prohibits the exercise of such discretion.

(3)[(4)] The jailer, or sheriff performing the duties of a jailer, of any county jail to which prisoners are committed at hard labor [or to satisfy fines by compulsory work] under *subsection (1)* [subsections (1) or (2)] of this section, may, by agreement with the city of the first class, provide for the adequate care, supervision, guarding, discipline, maintenance, transportation and housing of such prisoners while performing work or labor for the city outside the jail.

(4)[(5)] The procedure established by subsection (4) of this section for placing at work prisoners confined in county jails at hard labor is not intended to supersede other procedures otherwise prescribed by statute for the same purpose, but is intended as an additional or alternative method therefor.

Section 298. KRS 26.470 is amended to read as follows:

Persons sentenced to imprisonment in the police court of a city of the third class may be required to work in the city workhouse or on the streets, alleys or any public work of the city during the period of imprisonment.

[(1) Any person fined in the police court of a city of the third class shall be committed to the city prison until the fine and costs are paid or replevied, but not for more than one (1) day for each dollar of the fine and costs. He may be required by ordinance to work in the city workhouse or on the streets, alleys or any public work of the city, until the fine and costs are satisfied, at the rate of one dollar (\$1.00) per day.]

[(2) Persons sentenced to imprisonment may be required to work in the same way during the period of imprisonment.]

Section 299. KRS 26.490 is amended to read as follows:

(1) Any person sentenced to imprisonment by the police court of a city of the fifth class for violating a city ordinance may be imprisoned in the city jail, and if there is no city jail he shall be imprisoned in the county jail.

(2) Any person sentenced to imprisonment by the police court of a city of the sixth class for violating a city ordinance may be imprisoned in the city jail or, if the board of trustees so prescribe by ordinance, in the county jail.

(3) The cost of imprisonment in city or county jail as provided for in this section shall be paid by the city.

(4) *When imprisonment is imposed by the judge or jury in the police court of a city of the fifth or sixth class, the judge or jury may direct whether or not the imprisonment shall be at hard labor, unless the statute imposing the penalty specifically prohibits the exercise of such discretion. Any person so sentenced shall be committed to labor in the workhouse, or on streets or other public works or property within the city, until the imprisonment is satisfied.*

[(4) The city legislative body of cities of the fifth and sixth classes may cause persons imprisoned under final judgment in the police court, or in default of payment of fine and costs imposed by the police court, to labor in the workhouse, or on streets or other public works or property within the city, until the imprisonment

is satisfied or the fine and costs paid, and may fix the amount of the fine and costs that shall be considered paid by each day's labor.]

Section 300. KRS 29.350 is amended to read as follows:

No juror in any case shall [take or agree to take anything, directly or indirectly, to give or refrain from giving his verdict, nor,] from favoritism or corrupt partiality, give or refrain from giving his verdict.

Section 301. KRS 84.220 is amended to read as follows:

The general council may, by ordinance:

(1) Provide for the erection, management and regulation of slaughterhouses, and regulate the slaughtering of animals;

(2) Prohibit, remove or regulate the erection or maintenance, within the city limits, or within two (2) miles of the city limits, of stockyards, slaughterhouses, pigpens, cow stables, dairies, soap, coal oil and vitriol factories, and all other factories that the general council declares, by ordinance, to be nuisances;

(3) Declare, prevent and abate nuisances on public or private property, and the causes thereof;

[(4) Restrain and prevent riots, routs, noises, disturbances and disorderly assemblages;]

(4)[(5)] Restrain and prevent amusements or practices dangerous or annoying to persons or property;

(5)[(6)] Restrain and prevent all noises, performances and practices tending to the collection of persons on the streets and sidewalks;

(6)[(7)] Regulate or prohibit the driving of stock through the city or any part thereof;

(7)[(8)] License and tax dogs, authorize their destruction when at large contrary to ordinance, and impose penalties on their owners or keepers;

(8)[(9)] Regulate or prohibit the running at large of animals, and authorize the impounding and sale of animals.[:]

[(10) Prohibit the abuse of animals.]

Section 302. KRS 85.180 is amended to read as follows:

The common council may, by ordinance:

(1) Define, declare, prevent and abate nuisances in the city and within one (1) mile thereof;

(2) Regulate, restrain or prevent the establishment or continuance in or near the city of any trade, occupation, business or factory that is offensive to the public, dangerous to health, or is a fire hazard;

(3) Regulate the sale of firearms [, and prevent the carrying of concealed deadly weapons];

[(4) Provide for the arrest, imprisonment and punishment of riotous and disorderly persons;]

[(5) Provide for the prevention, suppression and punishment of all riots and breaches of the peace, noises, disturbances and disorderly or unlawful assemblies, either within the city or within one (1) mile of the city limits;]

(4)[(6)] Regulate, tax, license or suppress the keeping and running at large of animals within the city, impound animals kept or allowed to run at large in violation of ordinance, and sell or kill those not redeemed pursuant to ordinance.

Section 303. KRS 132.410 is amended to read as follows:

(1) The fiscal court of each county shall provide for the property valuation administrator a suitable office room or rooms in the county courthouse, or when that is not practicable, in some other building at the county seat, together with suitable furniture. In that office shall be safely kept the books, maps, taxpayers' lists, papers and all other records pertaining to the assessment of property within the county, except when such records are required by law to be placed in the custody of other officers. [The provisions of KRS 432.130 shall apply to these public records.]

(2) The property valuation administrator shall engage in official duties at least five (5) days a week during regular working hours and shall keep scheduled office hours at least five (5) days each week.

Section 304. KRS 164.990 is amended to read as follows:

[(1) Any person or persons making fraudulent statements to obtain benefits under KRS 164.515 shall be imprisoned in the penitentiary for one (1) year or fined one thousand dollars (\$1,000), or both.]

[(2)] Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned.

[(3) Any person who violates the provisions of KRS 164.980 shall be fined not less than \$50 nor more than \$1,000 or shall be imprisoned in the county jail for not less than ten nor more than ninety days, or both.]

Section 305. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the county court of each county shall have exclusive jurisdiction in proceedings concerning any child[, living, or found[, within the county who [and] has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however,

that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, needy or abandoned.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons *charged with violations of sections 260 and 261 of this Act*. [who, and no person shall:

(a) Knowingly encourage, aid, cause or in any manner contribute to the conditions which cause, or to cause a child who has not reached his eighteenth birthday to become delinquent, neglected, dependent, needy or charged with a crime.

(b) Willfully failed to do any act that will directly tend to prevent a child who has not reached his eighteenth birthday becoming delinquent, neglected, dependent, needy, abandoned or charged with a crime.]

(4) The court shall have exclusive jurisdiction of persons who and no person shall wilfully and unnecessarily expose to the inclemency of the weather, or in any other manner wilfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

Section 306. KRS 208.170 is amended to read as follows:

(1) If, during the course any proceeding in the juvenile court, it appears to the court that there is reasonable cause to believe that a child before the court has committed a felony, and at the time of commission of the offense the child was sixteen (16) years of age or older, or was less than sixteen (16) years of age but the offense was a *class A felony or a capital offense*, [murder or rape, including being an accessory to either of said offenses before the fact,] and the court is of the opinion that the best interests of the child and of the public require that the child be tried and disposed of under the regular law governing crimes, the court in its discretion may make an order transferring the case to the circuit court of the county in which the offense was committed. No child shall be considered a felon for any purpose until transferred to, tried and convicted of a felony by a circuit court.

(2) When the juvenile court so transfers a case to the circuit court:

(a) If a grand jury considers the case and is satisfied there is sufficient evidence to indict the child, it may either return an indictment or may return a written report to the circuit court recommending that the child be committed to the department. If the court believes that such commitment would be proper, it may order the child committed to the department.

(b) If, during any stage of the trial in the circuit court, the child or his parent or guardian so requests, the judge in his discretion may stop the trial and commit the child to the department.

(c) If neither of the procedures specified in paragraphs (a) and (b) of this subsection are employed, the child shall be tried as any other defendant.

(d) While under the jurisdiction of the circuit court, the child shall be subject to bail the same as an adult.

(e) Any commitment to the department under paragraph (a) or (b) of this subsection shall be for an indeterminate period not to exceed the age of twenty-one (21).

Section 307. KRS 208.990 is amended to read as follows:

(1) Any person who violates KRS 208.120 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than thirty (30) days, or both.

(2) Any person who transports or causes or permits a female child to be transported in violation of subsection (1) of KRS 208.260 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(3) Any person who violates subsection (2) of KRS 208.260 shall be fined not more than one hundred dollars (\$100).

[(4) (a) Any adult person who violates subsection (3) of KRS 208.020 shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than twelve (12) months, or both;]

[(b) Instead of the penalty imposed by paragraph (a) of this subsection, the court may suspend the sentence or release the defendant on probation upon his recognizance, with or without sureties. The defendant may be ordered during the effective period of his probation to make his personal appearance in court from time to time, and shall provide and care for the child as directed by the court, and shall further comply with the orders of the court. If the court is satisfied on information or proof under oath that the defendant has violated the terms of the order, it may revoke the order and sentence him under the original order of conviction.]

(4) [(5)] Any person who violates the provisions of KRS 208.020 (4) shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than one (1) year, or both.

(5) [(6)] Any person who violates KRS 208.020 (5) shall, for the first offense, be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300), or imprisoned in the county jail or workhouse not more than ninety (90) days, or both; and for any subsequent offense he shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse for not more than one (1) year, or both.

(6) [(7)] Anyone who violates the provisions of KRS 208.275 shall be subject to a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for a period of not less than 30 days nor more than 6 months or both.]

Section 308. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100).

[(2) Any person who, by negligent operation of a motorboat, causes the death of another, under circumstances not otherwise punishable as a homicide, shall be imprisoned in the county jail for not more than one (1) year.]

(2) [(3)] Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100).

Section 309. KRS 247.990 is amended to read as follows:

(1) Any person who violates subsection (3) of KRS 247.270 or who diverts the funds or profits of a farm bureau to any purpose except the purposes of the farm bureau shall be guilty of *theft* [larceny] and be punished as provided by law.

(2) Any officer who makes a certificate required by subsection (2) of KRS 247.270 or by KRS 247.300 knowing it to be false or incorrect in any particular, shall be fined not more than one hundred dollars (\$100).

Section 310. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 287.030 shall be fined not less than twenty (\$20.00) nor more than fifty dollars (\$50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars (\$200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (4) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (4) of KRS 287.440 shall immediately report such fact to the commissioner of banking and

securities, who shall remove the person so offending.

[(4)] Any officer of a bank who violates KRS 287.550, shall be imprisoned in the penitentiary for not less than one (1) nor more than ten (10) years.]

[(4)][(5)] Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

[(5)][(6)] Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

[(6)][(7)] Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred (\$100) nor more than two thousand dollars (\$2,000) for each offense.

[(7)][(8)] Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred (\$500) nor more than five thousand dollars (\$5,000) for each offense.

[(8)][(9)] Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars (\$25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars (\$250).

[(9)][(10)] Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred (\$100) nor more than five hundred dollars (\$500).

[(10)][(11)] Whenever any penalty imposed by subsections (5), (7), (8), (9) or (10) is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

[(11)][(12)] Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000).

[(12)][(13)] Any person who wilfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$500.00 or by imprisonment for not more than six months, or both.

[(13)][(14)] Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

[(14)][(15)] Notwithstanding the provisions of subsections (13) and (14) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

Section 311. KRS 392.100 is amended to read as follows:

If the violator *section 255 of this Act* [KRS 436.080] is a man, his first wife shall, on his conviction, be endowed of one-third part of his real estate for life and an absolute interest in one-third part of his other estate, to be allotted and recovered as dower in other cases. If the violator of *section 255 of this Act* [KRS 436.080] is a woman, she shall forfeit her claim to dower in her first husband's estate.

Section 312. KRS 44.171 is amended to read as follows:

Any person who violates *section 152 of this Act* [KRS 434.090] shall be personally liable to any person damaged by the violation for the amount of the damage. This section shall not release the principal for whom the person may have acted from any liability, but the person liable and the principal for whom he acted in violating this section shall be jointly and severally liable.

Section 313. KRS 431.130 is amended to read as follows:

Prisoners sentenced to punishment by confinement in the penitentiary shall be kept at hard labor. If the punishment is [a fine or] imprisonment in the jail of the county, or both, the imprisonment shall be close confinement in the jail of the county where the trial was held, unless otherwise provided. [The prisoner shall also be confined in the county jail until the costs are paid, unless otherwise provided.] In any jurisdiction where there is a county workhouse the court may in its discretion confine the prisoner to the county workhouse instead of the county jail.

Section 314. KRS 431.140 is amended to read as follows:

When the punishment for a crime is [a fine or] imprisonment in the county jail, [or both, and the defendant is a male,] the jury may, in its discretion, in those cases in which it is authorized to fix the punishment, provide in its verdict that the defendant shall work at hard labor [until the fine and costs are satisfied, or] during the time of his sentence of imprisonment, [or both,] and the presiding judge at such a trial shall inform the jury by an instruction that it may so provide in its verdict. When such a verdict is returned, or when the case is tried by the court or the punishment is authorized to be fixed by the court, a judgment shall be rendered directing that the defendant shall work at hard labor [until the fine and costs are satisfied, at the rate of two dollars per day, or] during the time of his sentence of imprisonment, [or both,] as the verdict provides.

Section 315. KRS 432.350 is amended to read as follows:

Any member of the general assembly or any other executive, judicial, ministerial or legislative officer of this state or of any county or city, including members of boards of education and subdistrict trustees, who takes or agrees to take any bribe to do or omit to do any act in his official capacity shall forfeit his office and be disqualified from the right of suffrage for ten years.

[(1) Any person who promises, offers, gives or causes or procures to be promised, offered or given any money or other thing of value, or makes or tenders any contract, obligation, gratuity or security for the payment of money or for the delivery or conveyance of anything of value, to any member of the General Assembly, or to any judicial, executive or ministerial officer of this state, or to any county or city executive, ministerial, judicial or legislative officer, including members of boards of education and subdistrict trustees, after he has been elected, and before or after he has been qualified and assumed office or taken his seat, with intent to influence his vote or decision on any question, matter, cause or proceeding pending in the General Assembly or before such officer, or pending before any committee of the General Assembly, shall be fined not less than fifty dollars nor more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, or both.

(2) Any member of the General Assembly or any other executive, judicial, ministerial or legislative officer of this state or of any county or city, including members of boards of education and subdistrict trustees, who takes or agrees to take any bribe to do, or omit to do, any act in his official capacity shall be fined not less than fifty dollars nor more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, and shall forfeit his office and be disqualified from the right of suffrage for ten years.

(3) Any prosecution under this section shall be commenced within five years from the date of the commission of the offense.

(4) Any person who gives to any subdistrict trustee any remuneration in return for recommendation or appointment to any position in the school system shall be exempt from prosecution under this section if he appears as a witness against the subdistrict trustee.]

Section 316. KRS 433.234 is amended to read as follows:

[(1) Any person who takes merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his own use without paying the purchase price therefor, shall be fined not more than three hundred dollars or imprisoned not more than six months, or both for the first offense. For a second offense he shall be fined not more than five hundred dollars and imprisoned not more than six months, and for a third offense he shall be imprisoned in the penitentiary not less than one nor more than five years.]

(1)[(2)] Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of concealment with intention of converting same to personal use without paying the purchase price therefor.

(2)[(3)] All city and county law enforcement agencies shall cause a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested under this section and KRS 433.236 to be made. If convicted, two copies of each item shall be forwarded within thirty days to the Division of State Police of the Department of Public Safety.

Section 317. KRS 437.140 is amended to read as follows:

In any prosecution for *criminal conspiracy* [a violation of any provision of KRS 437.110 or 437.120] it shall be no exemption for a witness that his testimony may incriminate himself. No testimony given by the witness shall be used against him in any prosecution except for perjury, and he shall be discharged from all liability for a violation of *any criminal conspiracy law* any provision of [KRS 437.110 or 437.120] necessarily

disclosed in his testimony.

Section 318. KRS 433.430 is amended to read as follows:

Any person who willfully and maliciously prevents, obstructs or delays the sending, transmission, conveyance or delivery in this state of any message, communication or report through any telegraph or telephone line, wire or cable shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than one year, or both.

[Any person who willfully and maliciously displaces, removes or damages any telegraph or telephone line, wire, cable, pole or conduit belonging to another; or willfully and maliciously cuts, breaks, taps or makes any connection with any telegraph or telephone line, wire, cable or instrument belonging to another, or the material or property appurtenant thereto; or willfully and maliciously reads, takes or copies any message, communication or report intended for another passing over any such telegraph or telephone line, wire or cable in this state; or willfully and maliciously prevents, obstructs or delays the sending, transmission, conveyance or delivery in this state of any message, communication or report through any telegraph or telephone line, wire or cable; or uses any apparatus to unlawfully do or cause to be done any of the acts mentioned in this section shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than one year, or both.]

Section 319. KRS 433.450 is amended to read as follows:

[(1) No person shall throw or deposit upon any public highway any glass, nail, tack, hoop, wire, can or any other substance likely to injure any person, animal or vehicle.]

(1)[(2)] Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2)[(3)] Any person who violates this section shall be fined not less than twenty-five dollars nor more than three hundred dollars.

Section 320. KRS 433.720 is amended to read as follows:

[(1) Any person who, without the consent of the owner, enters any orchard, game preserve, ginseng garden, or other premises enclosed by a fence not less than seven feet in height, after the owner has conspicuously displayed on the premises on a board not less than twelve by twenty-four inches in size the word "posted"; and any person who damages any such fence enclosing such premises shall be confined in the penitentiary for not less than one nor more than three years.

(2) Any person who, without the consent of the owner willfully enters or goes upon the enclosed farm premises of another shall be punished by a fine of not more than five hundred dollars, or by confinement in the county jail for not more than six months, or both.

(3) Subsection (2) of this section does not apply to any person entering any of the foregoing property for purposes of hunting if the hunter first obtains permission from the owner, lessor, lessee or occupier of the foregoing property to hunt thereon.]

(1)[(4)] Any hunter who hunts upon the property of another, whether with permission or not, shall be liable in civil damages for any damages caused as a result of his presence upon that property.

(2)[(5)] No owner, lessor, lessee or occupier of property shall be liable for any damages suffered by any person entering thereon for purposes of hunting, irrespective of whether or not the hunter is upon that property with permission of the owner, lessor, lessee or occupier of the property.

Section 321. KRS 433.757 is amended to read as follows:

(1) *When any litter, as defined in section 105 of this Act is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated section 111 of this Act.*

(2) *It shall be the duty of law enforcement officers of the Division of Boating as provided in KRS 235.010 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of section 111 of this Act.*

(3) *Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of section 111 of this Act.*

[(1) Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any trash, litter, debris or refuse of any kind whatsoever, including but not limited to, garbage, swill, cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, paper, and boxes, into or upon any lake, river, stream, creek or other body of water, or on the ice over such waters, or on the banks adjacent thereto, shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than three hundred dollars.

(2) When any trash, litter, debris or refuse as described above is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated this section.

(3) It shall be the duty of law enforcement officers of the Division of Boating as provided in KRS 235.310 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law

enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of this section.

(4) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of this section.]

Section 322. KRS 433.800 is amended to read as follows:

Any person who knowingly alters or defaces the marks or brands on any cattle [or other property] not his own, without the consent of the owner, shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Section 323. KRS 434.570 is amended to read as follows:

In addition and supplemental to the acts proscribed under *section 152 of this Act* [KRS 434.090], a person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or as to a material fact about his financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit card, is guilty of a felony and shall be confined in the penitentiary for not less than one nor more than five years.

Section 324. KRS 434.650 is amended to read as follows:

(1) A person who, with intent to defraud the issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person,

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit card which he knows is forged, expired or revoked, or

(b) Obtains money, goods, services or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, or

(c) Uses a credit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit card which he knows is forged, expired or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under *section 120 of this Act* [KRS 434.070] or *section 134 of this Act* [KRS 434.130], is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services or other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value exceeds \$100 in any six-month period.

(2) Knowledge of revocation shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if, the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

Section 325. KRS 436.480 is amended to read as follows:

The Kentucky Penal Code [KRS 436.440 to 436.470] shall not apply to enclosures during regular race meetings or enclosures in which horse racing is being conducted under license from the State Racing Commission, or to enclosures during regular race meetings in which trotting and pacing horses are being conducted by associations regularly organized for that purpose.

Section 326. KRS 436.605 is amended to read as follows:

(1) Dog wardens and officers and agents of humane societies shall have the powers of peace officers for the purpose of enforcing the provisions of *the Kentucky Revised Statutes relating to cruelty and mistreatment of animals* [KRS 436.180 and 436.590 to 436.600], provided they possess the qualifications required under KRS 61.300.

(2) Any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, who shall make oath before any judge of a court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn or other enclosure, the said judge shall thereupon on proof of demand having been made, issue a search warrant directed to any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or other peace officer to search the said premises, and if upon such search it is found that an act of cruelty to animals is being perpetrated to forthwith arrest such offender or offenders and bring him or them before the said court for trial.

Section 327. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and *the Kentucky Penal Code*, any county or circuit court may, upon motion of the defendant made not earlier than thirty days nor later than sixty days after the

defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty-day period.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty days of the filing date of that motion, and shall enter its ruling within ten days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

Section 328. KRS 439.550 is amended to read as follows:

If any court inferior to the circuit court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that such defendant be under the supervision of the Department of Corrections or provide its own supervision through the welfare department of the city or the fiscal court of the county.

[(1)] Whenever any person has been found guilty of a crime upon verdict or plea, in any court inferior to the circuit court that court may postpone the entering of judgment and place the defendant on probation.

(2) In placing any defendant on probation, the court may direct that such defendant be under the supervision of the Department of Corrections or provide its own supervision through the welfare department of the city or the fiscal court of the county.

(3) The period and conditions of probation and the discharge of such persons shall be in accordance with and pursuant to KRS 439.270 and 439.290.

(4) Such probationer may be arrested and his case disposed of according to KRS 439.300.]

Section 329. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warmblooded living creature except a human being;

(3) [(2)] "Attorney" means attorney at law;

(4) [(3)] "Bequeath" and "devise" mean the same thing;

(5) [(4)] "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) [(5)] "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;

(7) [(6)] "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;

(8) [(7)] "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;

(10) [(8)] "Directors", when applied to corporations, includes managers or trustees;

(11) [(9)] "Domestic", when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) [(10)] "Federal" refers to the United States;

(14) [(11)] "Foreign", when applied to corporations, includes all those incorporated or formed by authority of any other state;

(16) "Humane society", "society", or "Society for the Prevention of Cruelty to Animals", means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) [(12)] "Issue", as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) [(13)] "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) [(14)] "Legatee" and "devisee" convey the same idea;

(20) [(15)] "Magistrate" includes county judge, police judge and justice of the peace;

(21) [(16)] "May" is permissive;

(22) [(17)] "Month" means calendar month;

(23)[(18)] "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(24) "Owner" when applied to any animal, means any person having a property interest in such animal;

(25)[(19)] "Peace officer" includes sheriffs, constables, coroners, jailers, marshals, policemen and other persons with similar authority to make arrests;

(26)[(20)] "Penitentiary" includes all of the state penal institutions except the houses of reform;

(27)[(21)] "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(28)[(22)] "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(29)[(23)] "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected.

(30)[(24)] "Shall" is mandatory;

(31)[(25)] "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(32)[(26)] "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33)[(27)] "United States" includes territories, outlying possessions and the District of Columbia;

(34)[(28)] "Vacancy in office", or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35)[(29)] "Violate" includes failure to comply with;

(36)[(30)] "Will" includes codicils; "last will" means last will and testament;

(37)[(31)] "Year" means calendar year; and

(38)[(32)] "City" includes town.

Section 330. KRS 433.753 is amended to read as follows:

[(1) Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any garbage, swill, cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, junk, abandoned automobiles or parts thereof, paper, boxes, carcass of a dead animal, offal, trash, litter, debris or refuse of any kind whatsoever, in or upon any public or private highway or road, including any portion of the right of way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property, or in or upon any public park or other public property other than property designated or set aside as a public dump by the governing body having charge thereof, shall be guilty of a misdemeanor and fined not less than twenty-five dollars nor more than three hundred dollars.

(2) Any person operating a truck or other motor vehicle on any road or highway in such a manner or condition that the contents are blown or fall out of such vehicle upon or along the right of way of such road shall be guilty of a misdemeanor and fined not less than twenty-five dollars nor more than three hundred dollars.]

[(1)[(3)] When any paper, waste material, litter or other refuse [as described above] is thrown or dropped from a motor vehicle, the operator thereof shall be deemed *prima facie* to be guilty of criminal littering [have violated this section].

[(2)[(4)] It shall be the duty of the Kentucky State Police, county sheriffs and police officers, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws [provisions of this section].

[(3)[(5)] Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation *for commission of the offense of criminal littering* [for a violation of this section].

[(6) No portion of this section shall be construed to restrict a private owner in the use of his own private property except where otherwise prohibited by law.]

Section 331. KRS 436.107 is amended to read as follows:

[(1) It shall be unlawful for any person to make use of telephone facilities or equipment for the purpose of communicating language, suggestions or proposals which are obscene, profane, lewd, lascivious or indecent in a manner reasonably to be expected to annoy, abuse, harass, torment or embarrass another.

(2) Any person violating any of the provisions of subsection (1) shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$50 nor more than \$1,000, or to imprisonment for not more than one year or both.]

[(3)] After the ninetieth day following June 16, 1966, every telephone directory thereafter published for distribution to members of the general public shall contain a notice which explains *that it is unlawful for any person to make use of telephone facilities or equipment for the purpose of communicating language, suggestions or proposals which are obscene, profane, lewd, lascivious or indecent in a manner reasonably to be expected to annoy, abuse, harass, torment or embarrass another.* [this law]; such notice to be printed in type which is no smaller than the smallest type on the same page, and to be preceded by the word "WARNING". The provisions of this section shall not apply to directories solely for business advertising purposes, commonly known as classified directories.

Section 332. KRS 436.510 is amended to read as follows:

(1) In any prosecution or any investigation by an examining court or grand jury *of gambling violations* [under KRS 436.490, or any prosecution for gambling], it shall be no exemption for a witness that his testimony may incriminate himself.

(2) It shall be no exemption for the buyer of a lottery ticket, in any prosecution against the seller of a lottery ticket, that his testimony may incriminate himself.

(3) No testimony given in the proceedings stated in subsections (1) and (2) of this section shall be used against the testifying witness in any prosecution except for false swearing.

(4) Except as provided in subsection (3) of this section, a witness testifying in any prosecution [or any investigation by an examining court or grand jury under KRS 436.490, or any prosecution] against the seller of a lottery ticket, shall be discharged from all liability for any offense necessarily disclosed in his testimony.

(5) A witness testifying in any prosecution for gambling shall be discharged from all liability for gambling disclosed in his testimony.

[(6)] No person against whom a witness testifies in any prosecution or any investigation by an examining court or grand jury under KRS 436.490 shall testify as to similar violations on the part of the witness.]

[(6)][(7)] No person against whom a witness testifies in any prosecution for gambling shall testify as to any gambling by the witness.

Section 333. KRS 2.070, 16.190, 16.990, 25.770, 25.990(2), 26.160, 26.470, 61.700, 78.991, 102.990, 150.991, 160.991, 217.721, 217.725, 217.731, 217.735, 217.741, 217.745, 217.751, 217.755, 217.761, 217.765, 217.771, 217.775, 217.781, 217.785, 217.995, 218.010, 218.020, 218.025, 218.030, 218.040, 218.050, 218.060, 218.070, 218.080, 218.090, 218.100, 218.110, 218.120, 218.130, 218.140, 218.150, 218.160, 218.170, 218.180, 218.190, 218.191, 218.192, 218.194, 218.200, 218.210, 218.220, 218.230, 218.240, 218.245, 287.550, 405.030, 405.040, 405.050, 405.080, 405.990, 421.090, 431.035, 431.065, 431.070, 431.075, 431.090, 431.130, 431.140, 431.150, 431.155, 431.160, 431.170, 431.180, 431.190, 431.216, 432.010, 432.020, 432.030, 432.040, 432.050, 432.060, 432.070, 432.080, 432.090, 432.100, 432.130, 432.140, 432.150, 432.160, 432.170, 432.180, 432.190, 432.200, 432.210, 432.215, 432.220, 432.300, 432.310, 432.320, 432.330, 432.340, 432.350, 432.361, 432.365, 432.370, 432.380, 432.390, 432.400, 432.410, 432.420, 432.430, 432.440, 432.445, 432.450, 432.460, 432.470, 432.480, 432.495, 432.500, 432.505, 432.530, 432.540, 432.560, 433.010, 433.020, 433.030, 433.050, 433.060, 433.070, 433.110, 433.120, 433.130, 433.140, 433.150, 433.160, 433.170, 433.180, 433.190, 433.200, 433.210, 433.220, 433.230, 433.240, 433.250, 433.260, 433.270, 433.280, 433.290, 433.300, 433.310, 433.320, 433.330, 433.340, 433.350, 433.360, 433.370, 433.380, 433.390, 433.395, 433.400, 433.410, 433.420, 433.440, 433.450, 433.460, 433.480, 433.490, 433.500, 433.510, 433.521, 433.522, 433.523, 433.524, 433.525, 433.531, 433.533, 433.615, 433.620, 433.630, 433.640, 433.650, 433.660, 433.670, 433.680, 433.730, 433.740, 433.760, 433.790, 433.800, 433.810, 433.820, 433.830, 433.840, 433.850, 433.860, 433.870, 434.010, 434.020, 434.030, 434.040, 434.050, 434.060, 434.070, 434.080, 434.090, 434.100, 434.110, 434.120, 434.130, 434.140, 434.160, 434.170, 434.180, 434.190, 434.200, 434.210, 434.220, 434.230, 434.240, 434.250, 434.260, 434.270, 434.280, 434.290, 434.300, 434.350, 434.360, 434.380, 434.390, 434.400, 434.420, 434.430, 434.450, 434.460, 434.470, 434.480, 434.490, 434.500, 434.510, 435.010, 435.020, 435.022, 435.025, 435.030, 435.040, 435.050, 435.060, 435.070, 435.080, 435.090, 435.100, 435.105, 435.110, 435.120, 435.130, 435.140, 435.150, 435.160, 435.170, 435.180, 435.190, 435.200, 435.210, 435.220, 435.230, 432.235, 435.240, 435.250, 435.260, 435.270, 435.280, 435.290, 435.300, 435.310, 435.320, 436.010, 436.030, 436.040, 436.050, 436.060, 436.070, 436.075, 436.080, 436.090, 436.107, 436.110, 436.120, 436.130, 436.140, 436.150, 436.155, 436.170, 436.180, 436.190, 436.200, 436.210, 436.220, 436.230, 436.240, 436.250, 436.260, 436.270, 436.280, 436.290, 436.300, 436.310, 436.330, 436.340, 436.350, 436.360, 436.370, 436.380, 436.390, 436.400, 436.410, 436.430, 436.440, 436.450, 436.460, 436.470, 436.490, 436.500, 436.505, 436.506, 436.520, 436.530, 436.540, 436.550, 436.560, 436.570, 436.580, 436.590, 436.593, 436.595, 436.597, 437.011, 437.012, 437.013, 437.015, 437.016, 437.017, 437.018, 437.020, 437.040, 437.050, 437.070, 437.080, 437.090, 437.100, 437.110, 437.120, 437.130, 437.150, 438.010, 438.020, 438.030, 438.040, 438.080, 438.090, 438.145, 438.150, 438.200, 439.260, 439.270, 439.280, 439.290, 439.300, 441.180, and 441.190 are repealed.

The Committee Substitute for **HB 232** is as follows:

HB 232, AN ACT relating to the Kentucky Penal Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS Chapter 500 is established and a new section thereof created to read as follows:
This Act shall be known as the Kentucky Penal Code.

Section 2. A new section of KRS Chapter 500 is created to read as follows:

(1) Common law offenses are abolished and no act or omission shall constitute a criminal offense unless designated a crime or violation under this code or another statute of this state.

(2) This provision shall not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

Section 3. A new section of KRS Chapter 500 is created to read as follows:

All provisions of this code shall be liberally construed according to the fair import of their terms, to promote justice, and to effect the objects of the law.

Section 4. A new section of KRS Chapter 500 is created to read as follows:

(1) The provisions of this code shall not apply to any offense committed prior to its effective date, notwithstanding the provisions of KRS 446.110. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted.

(2) This code shall not bar, suspend or otherwise affect any right or liability to damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action.

(3) For purposes of this section, an offense shall be deemed to have been committed prior to the effective date of this code if any element of the offense occurred prior thereto.

Section 5. A new section of KRS Chapter 500 is created to read as follows:

(1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.

(2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one year after it is committed.

(3) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

Section 6. A new section of KRS Chapter 500 is created to read as follows:

(1) Except as otherwise provided in this section, a person may be convicted under the law of this state of an offense committed by his own conduct or the conduct of another for which he is legally accountable when:

(a) Either the conduct or the result which is an element of the offense occurs within this state; or
(b) Conduct occurring outside the state is sufficient to constitute an attempt to commit an offense within the state; or

(c) Conduct occurring outside the state is sufficient to constitute a conspiracy to commit an offense within the state and an overt act in furtherance of the conspiracy occurs within the state; or

(d) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this state; or

(e) The offense consists of the omission to perform a legal duty imposed by the law of this state regardless of where that person is when the omission occurs; or

(f) The offense is a violation of a statute of this state that expressly prohibits conduct outside the state.

(2) Subsection (1)(a) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside the state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within the state.

(3) When the offense is homicide, either the death of the victim or the bodily impact causing death constitutes a "result" within the meaning of subsection (1)(a). If the body of a homicide victim is found within this state, it shall be prima facie evidence that the result occurred within the state.

Section 7. A new section of KRS Chapter 500 is created to read as follows:

(1) The Commonwealth has the burden of proving every element of the case beyond a reasonable doubt, except as provided in subsection (3). This provision, however, does not require disproof of any element

that is entitled a "defense," as that term is used in this code, unless the evidence tending to support the defense is of such probative force that in the absence of countervailing evidence the defendant would be entitled to a directed verdict of acquittal.

(2) No court can require notice of a defense prior to trial time.

(3) The defendant has the burden of proving an element of a case only if the statute which contains that element provides that the defendant may prove such element in exculpation of his conduct.

Section 8. A new section of KRS Chapter 500 is created to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association.

(2) "Crime" means a misdemeanor or a felony.

(3) "Dangerous instrument" means any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

(4) "Deadly weapon" means any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, billy, blackjack, or metal knuckles.

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the Department of Corrections may be imposed.

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association.

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law.

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015.

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve months can be imposed.

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state or by any law, order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.

(12) "Person" means human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.

(13) "Physical injury" means substantial physical pain or any impairment of physical condition.

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object.

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral.

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

Section 9. A new section of KRS Chapter 500 is created to read as follows:

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to the General Fund of:

(i) The state, if the trial is held in circuit court;

(ii) The county, if the trial is held in county or quarterly court;

(iii) The city, if the trial is held in police or municipal court;

(iv) The metropolitan government, if the trial is held in the court of such jurisdiction.

(c) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

(d) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official state use. The expenses for keeping and transferring such property shall be paid by the state.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of:

- (i) The state, if the trial is held in circuit court;
- (ii) The county, if the trial is held in county or quarterly court;
- (iii) The city, if the trial is held in police or municipal court;
- (iv) The metropolitan government, if the trial is held in the court of such jurisdiction. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section;

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

- (a) Asserts his claim before disposition of the property pursuant to this section;
- (b) Establishes his legal interest in the property; and
- (c) Establishes that the unlawful use of the property was without his knowledge and consent.

Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Section 10. A new section of KRS Chapter 500 is created to read as follows:

The Commentary accompanying this code may be used as an aid in construing the provisions of this code.

Section 11. KRS Chapter 501 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter:

(1) "Culpable mental state" means "intentionally" or "knowingly" or "wantonly" or "recklessly," as these terms are defined in section 12 of this Act.

(2) "Intoxication" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.

(3) "Voluntary act" means a bodily movement performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

(4) "Voluntary intoxication" means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime.

Section 12. A new section of Chapter 501 is created to read as follows:

The following definitions apply in the Kentucky Penal Code:

(1) "Intentionally" - A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause that result or to engage in that conduct.

(2) "Knowingly" - A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

(3) "Wantonly" - A person acts wantonly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

(4) "Recklessly" - A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will

occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Section 13. A new section of KRS Chapter 501 is created to read as follows:

A person is not guilty of a criminal offense unless:

(1) He has engaged in conduct which includes a voluntary act or the omission to perform a duty which the law imposes upon him and which he is physically capable of performing; and

(2) He has engaged in such conduct intentionally, knowingly, wantonly or recklessly as the law may require, with respect to each element of the offense, except that this requirement does not apply to any offense which imposes absolute liability, as defined in section 15 of this Act.

Section 14. A new section of KRS Chapter 501 is created to read as follows:

Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state.

Section 15. A new section of KRS Chapter 501 is created to read as follows:

A person may be guilty of an offense without having one of the culpable mental states defined in section 12 of this Act only when:

(1) The offense is a violation or a misdemeanor as defined in section 8 of this Act and no particular culpable mental state is included within the definition of the offense; or

(2) The offense is defined by a statute other than this Penal Code and the statute clearly indicates a legislative purpose to impose absolute liability for the conduct described.

Section 16. A new section of KRS Chapter 501 is created to read as follows:

(1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.

(2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:

(a) The actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or

(b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:

(a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or

(b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.

Section 17. A new section of KRS Chapter 501 is created to read as follows:

(1) A person's ignorance or mistake as to a matter of fact or law does not relieve him of criminal liability unless:

(a) Such ignorance or mistake negatives the existence of the culpable mental state required for commission of an offense; or

(b) The statute under which he is charged or a statute related thereto expressly provides that such ignorance or mistake constitutes a defense or exemption; or

(c) Such ignorance or mistake is of a kind that supports a defense of justification as defined in this Penal Code.

(2) When ignorance or mistake relieves a person of criminal liability under subsection (1) but he would be guilty of another offense had the situation been as he supposed it was, he may be convicted of that other offense.

(3) A person's mistaken belief that his conduct, as a matter of law, does not constitute an offense does not relieve him of criminal liability, unless such mistaken belief is actually founded upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

(a) A statute or other enactment; or

(b) A judicial decision, opinion or judgment; or

(c) An administrative order or grant of permission; or

(d) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the law defining the offense.

Section 18. A new section of Chapter 501 is created to read as follows:

Intoxication is a defense to a criminal charge only if such condition either;

(a) Negatives the existence of an element of the offense; or

(b) Is not voluntarily produced and deprives the defendant of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

Section 19. A new section of KRS Chapter 501 is created to read as follows:

(1) In any prosecution for an offense other than an intentional homicide, it is a defense that the defendant engaged in the proscribed conduct because he was coerced to do so by the use of, or a threat of the use of, unlawful physical force against him or another person which a person in his situation could not reasonably be expected to resist.

(2) The defense provided by subsection (1) is unavailable if the defendant intentionally or wantonly placed himself in a situation in which it was probable that he would be subjected to coercion.

Section 20. KRS Chapter 502 is established and a new section thereof created to read as follows:

(1) A person is guilty of an offense committed by an innocent or irresponsible person when he:

(a) Acts with the culpability that is sufficient for commission of that offense; and

(b) Causes that innocent or irresponsible person to engage in conduct constituting the offense.

(2) As used in this section, an "innocent or irresponsible person" includes anyone who is not guilty of the offense in question, despite his participation, because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conduct in question or the defendant's criminal purpose; or

(c) Any other factor precluding the mental state sufficient for the commission of the offense in question.

Section 21. A new section of KRS Chapter 502 is created to read as follows:

(1) A person is guilty of an offense committed by another person when, with the intention of promoting or facilitating the commission of the offense, he:

(a) Solicits, commands, or engages in a conspiracy with such other person to commit the offense; or

(b) Aids, counsels, or attempts to aid such person in planning or committing the offense; or

(c) Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.

(2) When causing a particular result is an element of an offense, a person who acts with the kind of culpability with respect to the result that is sufficient for the commission of the offense is guilty of that offense when he:

(a) Solicits or engages in a conspiracy with another person to engage in the conduct causing such result; or

(b) Aids, counsels, or attempts to aid another person in planning, or engaging in the conduct causing such result; or

(c) Having a legal duty to prevent the conduct causing the result, fails to make a proper effort to do so.

Section 22. A new section of KRS Chapter 502 is created to read as follows:

In any prosecution for an offense in which the criminal liability of the accused is based upon the conduct of another person pursuant to sections 20 and 21 of this Act, it is no defense that:

(1) Such other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense, or has an immunity to prosecution or conviction for such conduct; or

(2) The offense in question, as defined, can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the offense in an individual capacity.

Section 23. A new section of KRS Chapter 502 is created to read as follows:

A person is not guilty under sections 20 or 21 of this Act for an offense committed by another person when:

(1) The offense is so defined that his conduct is inevitably incident to its commission; or

(2) Prior to the commission of the offense, he manifests a voluntary and complete renunciation, as defined in section 54 of this Act, of his criminal purposes and:

(a) Deprives his prior effort of its effectiveness in such commission; or

(b) Gives timely warning to the proper law enforcement authorities or otherwise makes proper effort to prevent commission of the offense.

Section 24. A new section of KRS Chapter 502 is created to read as follows:

(1) A corporation is guilty of an offense when:

(a) The conduct constituting the offense consists of a failure to discharge a specific duty imposed upon corporations by law; or

(b) The conduct constituting the offense is engaged in, authorized, commanded or wantonly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment in behalf of the corporation; or

(c) The conduct constituting the offense is engaged in by an agent of the corporation acting within the scope of his employment and in behalf of the corporation and:

(i) The offense is a misdemeanor or violation; or

(ii) The offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation.

(2) As used in this section:

(a) "Agent" means any officer, director, servant or employe of the corporation or any other person authorized to act in behalf of the corporation.

(b) "High managerial agent" means an officer of a corporation or any other agent of a corporation who has duties of such responsibility that his conduct reasonably may be assumed to represent the policy of the corporation.

Section 25. A new section of KRS Chapter 502 is created to read as follows:

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if the conduct were performed in his own name or behalf.

Section 26. KRS Chapter 503 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

(2) "Dwelling" means any building or structure, though movable or temporary which is for the time being either totally or partially the defendant's home or place of lodging.

(3) "Physical force" means force used upon or directed toward the body of another person and includes confinement.

Section 27. A new section of KRS Chapter 503 is created to read as follows:

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

Section 28. A new section of KRS Chapter 503 is created to read as follows:

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.

(2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

Section 29. A new section of KRS Chapter 503 is created to read as follows:

(1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law imposing a public duty or by a judicial decree.

(2) The justification afforded by subsection (1) applies when:

(a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or

(b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

Section 30. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat.

Section 31. A new section of KRS Chapter 503 is created to read as follows:

Notwithstanding the provisions of Section 30 of this Act, the use of physical force by a defendant upon another person is not justifiable when:

(1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or

(2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or

(3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:

(a) His initial physical force was non-deadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or

(b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

Section 32. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and

(b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under sections 30 and 31 of this Act in using such protection.

(2) The use of deadly physical force by a defendant upon another person is justifiable when:

(a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping or sexual intercourse compelled by force or threat; and

(b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under sections 30 and 31 of this Act in using such protection.

Section 33. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:

(a) The commission of criminal trespass or burglary in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or

(b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:

(a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

(b) Committing or attempting to commit a burglary of such dwelling; or

(c) Committing or attempting to commit arson of a dwelling or other building in his possession.

Section 34. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:

(a) Believes that such force is necessary to effect the arrest;

(b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and

(c) Believes the arrest to be lawful.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:

(a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and

(b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and

(c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

(3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

Section 35. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:

(a) Committing suicide or inflicting serious physical injury upon himself; or
(b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1)(b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.

(3) The limitations imposed on the justifiable use of force in self-protection by sections 30 and 31, for the protection of other by section 32, for the protection of property by section 33, and for the effectuation of an arrest or the prevention of an escape by section 34 of this Act apply notwithstanding the criminality of the conduct against which such force is used.

Section 36. A new section of KRS Chapter 503 is created to read as follows:

(1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:

(a) The defendant believes that the force used is necessary to promote the welfare of a minor or incompetent person or, if the defendant's responsibility for the minor or incompetent person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class or other group; and

(b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.

(2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and:

(a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;

(b) The degree of force used is not forbidden by any statute governing the administration of the institution; and

(c) If deadly force is used, its use is otherwise justifiable under this code.

(3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.

(4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:

(a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and

(b) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

Section 37. A new section of KRS Chapter 503 is created to read as follows:

(1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under sections 30 to 36 of this Act but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

(2) When the defendant is justified under sections 30 to 36 of this Act in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

Section 38. KRS Chapter 504 is established and a new section thereof created to read as follows:

Lack of criminal responsibility because of immaturity is a defense to any prosecution for an offense. A person is immature for purposes of this section when, at the time of the conduct charged to constitute an offense, he was:

(1) Less than sixteen years of age, except that a person of this age shall not be deemed immature if the juvenile court has no jurisdiction over him nor shall he be deemed immature if the offense charged against him is a Class A felony or capital offense and the juvenile court has entered an order waiving jurisdiction; or

(2) Sixteen but less than eighteen years of age, except that a person of this age shall not be deemed immature if the juvenile court has no jurisdiction over him nor shall he be deemed immature if the offense

against him is a felony and the juvenile court has entered an order waiving jurisdiction.

Section 39. A new section of KRS Chapter 504 is created to read as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

(2) As used in this chapter, the term "mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

(3) A defendant may prove mental disease or defect, as used in this section, in exculpation of criminal conduct.

Section 40. A new section of KRS Chapter 504 is created to read as follows:

(1) When a defendant is acquitted of an offense for lack of criminal responsibility by reason of mental disease or defect, as defined in section 39 of this Act, the court may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of KRS Chapter 202.

(2) To facilitate the procedure established in subsection (1), the court, if it has reasonable grounds to believe that the defendant will cause injury to himself or others if not immediately restrained, may order him to be hospitalized in a state hospital for a period not to exceed seven consecutive days. The order of commitment under this subsection shall be pursuant to and under the authority of KRS 202.027 and shall be subject to all of the provisions of that statute.

Section 41. A new section of KRS Chapter 504 is created to read as follows:

(1) No person who, as a result of mental disease or defect, lack capacity to appreciate the nature and consequences of the proceedings against him or to participate rationally in his own defense shall be tried, convicted or sentenced for the commission of an offense, so long as such incapacity endures.

(2) When a defendant is found to have a mental disease or defect, as described in subsection (1), the court may on motion of the prosecuting attorney or on its own motion proceed immediately to have the defendant committed for examination and possible detention pursuant to the provisions of KRS Chapter 202.

Section 42. A new section of KRS Chapter 504 is created to read as follows:

(1) Evidence of mental disease or defect which is offered to show lack of criminal responsibility is not admissible unless the defendant files a written notice of his intention to rely on such defense at least 20 days prior to the day of trial or at such later time as the court may for good cause permit. Upon filing of such notice, the prosecution shall be granted reasonable time prior to trial to move for an examination of the defendant under subsection (2) and to prepare the case for the Commonwealth.

(2) Whenever the defendant has filed the notice required by subsection (1) or whenever there is reason to doubt his fitness to proceed, the court shall appoint at least one qualified psychiatrist to examine and report upon the mental condition of the defendant and, to accomplish this, may order the defendant to be committed to a state mental hospital for the purpose of an examination for a period of not more than ten days. A qualified psychiatrist retained by the defendant shall be permitted to witness and participate in the examination.

(3) As soon as practicable after the defendant has given notice of his intention to rely on the defense of mental disease or defect, but in any event no less than ten days before trial, except as provided otherwise by court for good cause shown, the prosecution shall file and serve upon the defendant the names and addresses of the witnesses the state proposes to offer in denial of the defendant's defense, along with any medical reports prepared by those witnesses in connection with the defendant's mental condition.

Section 43. KRS Chapter 505 is established and a new section thereof created to read as follows:

(1) A person is not guilty of an offense arising out of proscribed conduct when:

(a) He was induced or encouraged to engage in that conduct by a public servant or by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of criminal prosecution; and

(b) At the time of the inducement or encouragement, he was not otherwise disposed to engage in such conduct.

(2) The relief afforded by subsection (1) is unavailable when:

(a) The public servant or the person acting in cooperation with a public servant merely affords the defendant an opportunity to commit an offense; or

(b) The offense charged has physical injury or the threat of physical injury as one of its elements and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.

(3) The relief provided a defendant by subsection (1) is a defense.

Section 44. A new section of KRS Chapter 505 is created to read as follows:

(1) When a single course of conduct of a defendant may establish the commission of more than one offense, he may be prosecuted for each such offense. He may not, however, be convicted of more than one offense when:

(a) One offense is included in the other, as defined in subsection (2); or
(b) Inconsistent findings of fact are required to establish the commission of the offenses, or
(c) The offense is designed to prohibit a continuing course of conduct and the defendant's course of conduct was uninterrupted by legal process, unless the law expressly provides that specific periods of such conduct constitute separate offenses.

(2) A defendant may be convicted of an offense that is included in any offense with which he is formally charged. An offense is so included when:

(a) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(b) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or

(c) It differs from the offense charged only in the respect that a lesser kind of culpability suffices to establish its commission; or

(d) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest suffices to establish its commission.

Section 45. A new section of KRS Chapter 505 is created to read as follows:

When a prosecution is for a violation of the same statutory provision and is based upon the same facts as a former prosecution, it is barred by the former prosecution under the following circumstances:

(1) The former prosecution resulted in:

(a) An acquittal, or

(b) A conviction which has not subsequently been set aside; or

(2) The former prosecution resulted in a determination by the court, which has not subsequently been set aside, that there was insufficient evidence to warrant a conviction; or

(3) The former prosecution was terminated by a final order or judgment, which has not subsequently been set aside, and which required a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

(4) The former prosecution was improperly terminated after the first witness was sworn but before findings were rendered by a trier of fact. Termination under either of the following circumstances is not improper;

(a) The defendant expressly consents to the termination or by motion for mistrial or in some other manner waives his right to object to the termination; or

(b) The trial court, in exercise of its discretion, finds that the termination is manifestly necessary.

Section 46. A new section of KRS Chapter 505 is created to read as follows:

Although a prosecution is for a violation of a different statutory provision from a former prosecution or for a violation of the same provision but based on different facts, it is barred by the former prosecution under the following circumstances:

(1) The former prosecution resulted in an acquittal, a conviction which has not subsequently been set aside, or a determination that there was insufficient evidence to warrant a conviction, and the subsequent prosecution is for:

(a) An offense of which the defendant could have been convicted at the first prosecution; or

(b) An offense involving the same conduct as the first prosecution, unless each prosecution requires proof of a fact not required in the other prosecution or unless the offense was not consummated when the former prosecution began; or

(2) The former prosecution was terminated by a final order or judgment which has not subsequently been set aside and which required a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or

(3) The former prosecution was improperly terminated, as that term is used in subsection (4) of Section 45 of this Act, and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated.

Section 47. A new section of KRS Chapter 505 is created to read as follows:

When conduct constitutes an offense within the concurrent jurisdiction of this state and of the United States or another state, a prosecution in such other jurisdiction is a bar to a subsequent prosecution in this state under the following circumstances:

(1) The former prosecution resulted in an acquittal, a conviction which has not subsequently been set aside, or a determination that there was insufficient evidence to warrant a conviction, and the subsequent prosecution is for an offense involving the same conduct unless:

(a) Each prosecution requires proof of a fact not required in the other prosecution; or

(b) The offense involved in the subsequent prosecution was not consummated when the former prosecution began; or

(2) The former prosecution was terminated in a final order or judgment which has not subsequently been set aside and which required a determination inconsistent with any fact necessary to a conviction in the

subsequent prosecution.

Section 48. A new section of KRS Chapter 505 is created to read as follows:

A prosecution is not barred, as provided in Sections 45, 46 and 47 of this Act if the former prosecution:

(a) Was procured by the defendant without the knowledge of the proper prosecuting officer and with the purpose of avoiding the sentence which otherwise might be imposed; or

(b) Was before a court which lacked jurisdiction over the defendant or the offense.

Section 49. KRS Chapter 506 is established and a new section thereof created to read as follows:

(1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he:

(a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or

(b) Intentionally does or omits to do anything which, under the circumstances as he believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.

(2) Conduct shall not be held to constitute a substantial step under subsection (1)(b) unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he is charged with attempting.

(3) A person is guilty of criminal attempt to commit a crime when he engages in conduct intended to aid another person to commit that crime, although the crime is not committed or attempted by the other person, provided that his conduct would establish complicity under Section 21 of this Act if the crime were committed by the other person.

(4) A criminal attempt is a:

(a) Class B felony when the crime attempted is a Class A felony or capital offense;

(b) Class C felony when the crime attempted is a Class B felony;

(c) Class A misdemeanor when the crime attempted is a Class C or D felony;

(d) Class B misdemeanor when the crime attempted is a misdemeanor.

Section 50. A new section of KRS Chapter 506 is created to read as follows:

(1) In any prosecution for criminal attempt to commit a crime, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant abandoned his effort to commit the crime and, if mere abandonment was insufficient to avoid the commission of the crime, took the necessary affirmative steps to prevent its commission.

(2) A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by:

(a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or

(b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

Section 51. A new section of KRS Chapter 506 is created to read as follows:

(1) A person is guilty of criminal solicitation when, with the intent of promoting or facilitating the commission of a crime, he commands or encourages another person to engage in specific conduct which would constitute that crime or an attempt to commit that crime or which would establish the other's complicity in its commission or attempted commission.

(2) A criminal solicitation is a:

(a) Class B felony when the crime solicited is a Class A felony or capital offense;

(b) Class C felony when the crime solicited is a Class B felony;

(c) Class A misdemeanor when the crime solicited is a Class C or D felony;

(d) Class B misdemeanor when the crime solicited is a misdemeanor.

Section 52. A new section of KRS Chapter 506 is created to read as follows:

(1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:

(a) Agrees with one or more persons that at least one of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or

(b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.

(2) A criminal conspiracy is a:

(a) Class B felony when the object of the conspiratorial agreement is a Class A felony or capital offense;

(b) Class C felony when the object of the conspiratorial agreement is a Class B felony;

(c) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;

(d) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

Section 53. A new section of KRS Chapter 506 is created to read as follows:

(1) No person may be convicted of conspiracy to commit a crime unless an overt act in furtherance of the conspiracy is alleged and proved to have been committed by one of the conspirators.

(2) A person who conspires to commit more than one crime, all of which are the object of the same agreement or continuous conspiratorial relationship, is guilty of only one conspiracy. The classification of this crime under subsection (2) of section 52 of this Act shall be determined by the most serious offense which he is found guilty of conspiring to commit.

(3) If a person guilty of conspiracy, as defined by section 52 of this Act, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit the crime with the other person or persons, whether or not he knows their identity.

(4) No person may be convicted of conspiracy to commit a crime when an element of that crime is agreement with the person with whom he is alleged to have conspired or when that crime is so defined that his conduct is an inevitable incident to its commission.

Section 54. A new section of KRS Chapter 506 is created to read as follows:

(1) In any prosecution for criminal solicitation or criminal conspiracy in which the crime solicited or the crime contemplated by the conspiracy was not in fact committed, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant prevented the commission of the crime.

(2) A renunciation is not "voluntary and complete" within the meaning of this section when it is motivated in whole or in part by:

(a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or

(b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

Section 55. A new section of KRS Chapter 506 is created to read as follows:

(1) It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose; or

(c) Any other factor precluding the mental state required for the commission of the crime solicited.

(2) It is no defense to a prosecution for criminal conspiracy that a co-conspirator could not be guilty of the conspiracy or the crime contemplated by the conspiracy because of:

(a) Criminal irresponsibility or other legal incapacity or exemption; or

(b) Unawareness of the criminal nature of the conspiracy or the conduct contemplated by the conspiracy or of the defendant's criminal purpose; or

(c) Any other factor precluding the mental state required for the commission of the conspiracy or the crime contemplated by the conspiracy.

(3) A defendant cannot be convicted of conspiracy if all of his co-conspirators have been acquitted or discharged under circumstances amounting to an acquittal.

Section 56. A new section of KRS Chapter 506 is created to read as follows:

(1) A person is guilty of criminal facilitation when, acting with knowledge that another person is committing or intends to commit a crime, he engages in conduct which knowingly provides such person with means or opportunity for the commission of the crime and which in fact aids such person to commit the crime.

(2) Criminal facilitation is a:

(a) Class D felony when the crime facilitated is a Class A or Class B felony or capital offense;

(b) Class A misdemeanor when the crime facilitated is a Class C or Class D felony;

(c) Class B misdemeanor when the crime facilitated is a misdemeanor.

Section 57. A new section of KRS Chapter 506 is created to read as follows:

In any prosecution for criminal facilitation, it is no defense that:

(1) The person facilitated could not be guilty of the crime facilitated because of criminal irresponsibility or other legal incapacity or exemption, unawareness of the criminal nature of the conduct facilitated, or any other factor precluding the mental state required for commission of the crime facilitated; or

(2) The person facilitated has not been prosecuted for or convicted of the crime facilitated, or has been convicted of a different crime, or has an immunity to prosecution or conviction for such conduct; or

(3) The crime facilitated can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the crime in an individual capacity.

Section 58. A new section of KRS Chapter 506 is created to read as follows:

A person is not guilty of criminal facilitation when:

- (1) The crime facilitated is so defined that his conduct is inevitably incident to its commission; or
- (2) Prior to the commission of the crime facilitated he makes a substantial effort to prevent the commission of that crime.

Section 59. A new section of KRS Chapter 506 is created to read as follows:

(1) A person may not be convicted on the basis of the same course of conduct of both the actual commission of a crime and:

- (a) A criminal attempt to commit that crime; or
- (b) A criminal solicitation of that crime; or
- (c) A criminal facilitation of that crime; or
- (d) A conspiracy to commit that crime, except as provided in subsection (2) of this section.

(2) A person may be convicted on the basis of the same course of conduct of both the actual commission of a crime and a conspiracy to commit that crime when the conspiracy from which the consummated crime resulted had as an objective of the conspiratorial relationship the commission of more than one crime.

(3) A person may not be convicted of more than one of the offenses defined in sections 49, 51, 52 and 56 of this Act for a single course of conduct designed to consummate in the commission of the same crime.

Section 60. KRS Chapter 507 is established and a new section thereof created to read as follows:

A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

Section 61. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a Class A felony, except that in the following situations it is a capital offense:

- (a) The defendant's act of killing was intentional and was for profit or hire;
- (b) The defendant's act of killing was intentional, and occurred during the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree;
- (c) The defendant's act of killing was intentional and the defendant was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
- (d) The defendant's act of killing was intentional and the death was caused through use of a destructive device, as defined in KRS 237.030(1); or
- (e) The defendant's act or acts of killing were intentional and resulted in multiple deaths.
- (f) The defendant's act of killing was intentional and the victim was a police officer, sheriff or deputy sheriff engaged at the time of the act in the lawful performance of his duties.

Section 62. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of section 61 of this Act.

(2) Manslaughter in the first degree is a Class B felony:

Section 63. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person.

(2) Manslaughter in the second degree is a Class C felony.

Section 64. A new section of KRS Chapter 507 is created to read as follows:

(1) A person is guilty of reckless homicide when, with recklessness he causes the death of another person.

(2) Reckless homicide is a Class D felony.

Section 65. KRS Chapter 508 is established and a new section thereof created to read as follows:

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B felony.

Section 66. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of assault in the second degree when:

(a) He intentionally causes serious physical injury to another person; or

(b) He intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(c) He wantonly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the second degree is a Class C felony.

Section 67. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of assault in the third degree when:

(a) He intentionally or wantonly causes physical injury to another person; or

(b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the third degree is a Class A misdemeanor.

Section 68. A new section of KRS Chapter 508 is created to read as follows:

(1) In any prosecution under sections 65, 66, or 67 of this Act in which intentionally causing physical injury or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of section 61 of this Act.

(2) An assault committed under the influence of extreme emotional disturbance is:

(a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; or

(b) A Class B misdemeanor when it would constitute an assault in the third degree if not committed under the influence of an extreme emotional disturbance.

Section 69. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of menacing when he intentionally places another person in reasonable apprehension of imminent physical injury.

(2) Menacing is a Class B misdemeanor.

Section 70. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.

(2) Wanton endangerment in the first degree is a Class D Felony.

Section 71. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of wanton endangerment in the second degree when he wantonly engages in conduct which creates a substantial danger of physical injury to another person.

(2) Wanton endangerment in the second degree is a Class A misdemeanor.

Section 72. A new section of KRS Chapter 508 is created to read as follows:

(1) A person is guilty of terroristic threatening when:

(a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or

(b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening is a Class A misdemeanor.

Section 73. KRS Chapter 509 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Relative" means a parent, ancestor, brother, sister, uncle or aunt.

(2) "Restrain" means to restrict another person's movements in such a manner as to cause a substantial interference with his liberty by moving him from one place to another or by confining him either in the place where the restriction commences or in a place to which he has been moved without consent. A person is moved or confined "without consent" when the movement or confinement is accomplished by physical force, intimidation, or deception, or by any means, including acquiescence of a victim, if he is under the age of sixteen years, or is substantially incapable of appraising or controlling his own behavior.

Section 74. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of unlawful imprisonment in the first degree when he knowingly and unlawfully restrains another person under circumstances which expose that person to a risk of serious physical injury.

(2) Unlawful imprisonment in the first degree is a Class D felony.

Section 75. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of unlawful imprisonment in the second degree when he knowingly and unlawfully restrains another person.

(2) Unlawful imprisonment in the second degree is a Class A misdemeanor.

Section 76. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

- (a) To hold him for ransom or reward; or
- (b) To accomplish or to advance the commission of a felony; or
- (c) To inflict bodily injury or to terrorize the victim or another; or
- (d) To interfere with the performance of a governmental or political function; or
- (e) To use him as a shield or hostage.

(2) Kidnapping is a capital offense unless the defendant voluntarily releases the victim alive, substantially unharmed, and in a safe place prior to trial, in which case it is a Class B felony.

Section 77. A new section of KRS Chapter 509 is created to read as follows:

A person may not be convicted of unlawful imprisonment in the first degree, unlawful imprisonment in the second degree, or kidnapping when his criminal purpose is the commission of an offense defined outside this chapter and his interference with the victim's liberty occurs immediately with and incidental to the commission of that offense, unless the interference exceeds that which is ordinarily incident to commission of the offense which is the objective of his criminal purpose. The exemption provided by this section is not applicable to a charge of kidnapping that arises from an interference with another's liberty that occurs incidental to the commission of a criminal escape.

Section 78. A new section of KRS Chapter 509 is created to read as follows:

In any prosecution for unlawful imprisonment or kidnapping it is a defense that the defendant was a relative of the victim and his sole purpose was to assume custody of the victim.

Section 79. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any incompetent or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant or unless the defendant is a relative of the victim in which case it is a Class A misdemeanor.

Section 80. A new section of KRS Chapter 509 is created to read as follows:

(1) A person is guilty of criminal coercion when with intent to compel another person to engage in or refrain from conduct, he unlawfully threatens to:

- (a) Commit any crime; or
- (b) Accuse anyone of a crime; or
- (c) Expose any secret tending to subject any person to hatred, contempt or ridicule or to impair another's credit or business repute; or
- (d) Take or withhold action as an official or cause an official to take or withhold action.

(2) A defendant may prove in exculpation of criminal coercion committed under subsection (1)(b), (c) or (d) that he believed the accusation or secret to be true or the proposed official action justified and that his sole purpose was to compel or induce the victim to desist from misbehavior or to make good a wrong done by him.

Section 81. KRS Chapter 510 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another.

(2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped.

(3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses living apart under a decree of judicial separation are not married to one another for purposes of this chapter.

(4) "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent.

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party.

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

Section 82. A new section of KRS Chapter 510 is created to read as follows:

(1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.

(2) Lack of consent results from:

(a) Forcible compulsion; or

(b) Incapacity to consent; or

(c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(3) A person is deemed incapable of consent when he is:

(a) Less than 16 years old; or

(b) Mentally defective; or

(c) Mentally incapacitated; or

(d) Physically helpless.

Section 83. A new section of KRS Chapter 510 is created to read as follows:

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen years old, mentally defective, mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

Section 84. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of rape in the first degree when:

(a) He engages in sexual intercourse with another person by forcible compulsion; or

(b) He engages in sexual intercourse with another person who is incapable of consent because he;

(i) Is physically helpless; or

(ii) Is less than twelve years old.

(2) Rape in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

Section 85. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of rape in the second degree when, being eighteen years old or more, he engages in sexual intercourse with another person less than fourteen years old.

(2) Rape in the second degree is a Class C felony.

Section 86. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally defective or mentally incapacitated; or

(b) Being twenty-one years old or more, he engages in sexual intercourse with another person less than sixteen years old.

(2) Rape in the third degree is a Class D felony.

Section 87. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the first degree when:

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

(i) Is physically helpless; or

(ii) Is less than twelve years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve years old or receives a serious physical injury in which case it is a Class A felony.

Section 88. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old.

(2) Sodomy in the second degree is a Class C felony.

Section 89. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally defective or mentally incapacitated; or

(b) Being twenty-one years old or more, he engages in deviate sexual intercourse with another person less than sixteen years old.

(2) Sodomy in the third degree is a Class D felony.

Section 90. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sodomy in the fourth degree when he engages in deviate sexual intercourse with another person of the same sex.

(2) Notwithstanding the provisions of section 82 of this Act, consent of the other person shall not be a defense under this section, nor shall lack of consent of the other person be an element of this offense.

(3) Sodomy in the fourth degree is a Class A misdemeanor.

Section 91. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

(i) Is physically helpless; or

(ii) Is less than twelve years old.

(2) Sexual abuse in the first degree is a Class D felony.

Section 92. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally defective or mentally incapacitated; or

(b) He subjects another person who is less than fourteen years old to sexual contact.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 93. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual abuse in the third degree when:

(a) He subjects another person to sexual contact without the latter's consent.

(b) In any prosecution under this section, it is a defense that:

(i) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen years old; and

(ii) The other person was at least fourteen years old; and

(iii) The actor was less than five years older than the other person.

(2) Sexual abuse in the third degree is a Class B misdemeanor.

Section 94. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.

(2) Sexual misconduct is a Class A misdemeanor.

Section 95. A new section of KRS Chapter 510 is created to read as follows:

(1) A person is guilty of indecent exposure when he intentionally exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm.

(2) Indecent exposure is a Class B misdemeanor.

Section 96. KRS Chapter 511 is established and a new section thereof created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft:

(a) Where any person lives; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation.

Each unit of a building consisting of two or more units separately secured or occupied is a separate building.

(2) "Dwelling" means a building which is usually occupied by a person lodging therein at night.

(3) "Night" means a period between thirty minutes after sunset and thirty minutes before sunrise.

(4) "Premises" includes the term "building" as defined herein and any real property.

Section 97. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of burglary in the first degree when he knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime and when:

(a) In effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the offense:

- (i) Is armed with explosives or a deadly weapon; or
- (ii) Causes physical injury to any person who is not a participant in the crime, or
- (iii) Uses or threatens the use of a dangerous instrument against some person who is not a participant in the crime; or

(b) The entering or remaining occurs at night.

(2) Burglary in the first degree is a Class B felony.

Section 98. A new section of KRS 511 is created to read as follows:

(1) A person is guilty of burglary in the second degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime and when in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

(a) Is armed with explosives or a deadly weapon; or

(b) Causes physical injury to any person who is not a participant in the crime; or

(c) Uses or threatens the use of a dangerous instrument against any person who is not a participant in the crime.

(2) Burglary in the second degree is a Class C felony.

Section 99. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of burglary in the third degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime.

(2) Burglary in the third degree is a Class D felony.

Section 100. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of possession of burglar's tools when he possesses any tool, instrument or other thing adapted, designed or commonly used for committing or facilitating the commission of an offense involving forcible entry into premises or theft by a physical taking under circumstances which leave no reasonable doubt as to his:

(a) Intention to use the same in the commission of an offense of such character; or

(b) Knowledge that some other person intends to use the same in the commission of an offense of such character.

(2) Possession of burglar's tools is a Class A misdemeanor.

Section 101. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a dwelling.

(2) Criminal trespass in the first degree is a Class A misdemeanor.

Section 102. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the second degree when he knowingly enters or remains unlawfully in a building or upon premises as to which notice against trespass is given by fencing or other enclosure.

(2) Criminal trespass in the second degree is a Class B misdemeanor.

Section 103. A new section of KRS Chapter 511 is created to read as follows:

(1) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.

(2) Criminal trespass in the third degree is a violation.

Section 104. A new section of KRS Chapter 511 is created to read as follows:

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.

(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.

(4) A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.

Section 105. KRS Chapter 512 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

Section 106. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the first degree when, having no right to do so or any reasonable ground to believe that he has such right, he intentionally defaces, destroys or damages any property causing pecuniary loss of \$1,000 or more.

(2) Criminal mischief in the first degree is a Class D felony.

Section 107. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the second degree when, having no right to do so or any reasonable ground to believe that he has such right, he intentionally or wantonly defaces, destroys or damages any property causing pecuniary loss of \$500 or more.

(2) Criminal mischief in the second degree is a Class A misdemeanor.

Section 108. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal mischief in the third degree when:

(a) Having no right to do so or any reasonable ground to believe that he has such right, he intentionally defaces, destroys or damages any property; or

(b) He tampers with property so as knowingly to endanger the person or property of another.

(2) Criminal mischief in the third degree is a Class B misdemeanor.

Section 109. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal use of a noxious substance when he unlawfully deposits on the land or in the building or vehicle of another any stink bomb, device, or irritant with the intent to interfere with another's use of the land, building or vehicle.

(2) Criminal use of a noxious substance is a Class B misdemeanor.

Section 110. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal possession of a noxious substance when he possesses such substance under circumstances evincing an intent unlawfully to use or cause it to be used to inflict injury upon or to cause annoyance to a person, or to damage property of another, or to disturb the public peace.

(2) Criminal possession of a noxious substance is a Class B misdemeanor.

Section 111. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of criminal littering when he:

(a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or

(b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or

(c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty feet of a public highway; or

(d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.

(2) Criminal littering is a Class B misdemeanor.

Section 112. A new section of KRS Chapter 512 is created to read as follows:

(1) A person is guilty of unlawfully posting advertisements when, having no right to do so or any reasonable ground to believe he has such a right, he posts, paints or otherwise affixes to the property of another person or to public property any advertisement, poster, notice or other matter.

(2) Unlawfully posting advertisements is a violation.

Section 113. KRS Chapter 513 is established and a new section thereof created to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft:

(a) Where any person lives; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment or public transportation; or

(c) Which is used for overnight accommodation of persons.

(2) Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building.

Section 114. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the first degree when he intentionally damages a building by starting a fire or causing an explosion, and when he knows or has reason to believe that another person, not an accomplice, is present in the building at the time.

(2) Arson in the first degree is a Class B felony.

Section 115. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the second degree when he intentionally damages a building by starting a fire or causing an explosion.

(2) In any prosecution under this section, it is a defense that:

- (a) No person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to the defendant's conduct; and
 - (b) The defendant's sole intent was to destroy or damage the building for a lawful purpose.
- (3) Arson in the second degree is a Class C felony.

Section 116. A new section of KRS Chapter 513 is created to read as follows:

(1) A person is guilty of arson in the third degree when he wantonly damages a building by intentionally starting a fire or causing an explosion.

(2) In any prosecution under this section, it is a defense that no person other than the defendant had a possessory or proprietary interest in the building, or, if other persons had such an interest, all of them consented to defendant's conduct.

(3) Arson in the third degree is a Class D felony.

Section 117. KRS Chapter 514 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink.

(6) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(7) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(8) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable property.

Section 118. A new section of KRS Chapter 514 is created to read as follows:

(1) It is a defense to prosecution for theft that the actor:

(a) Was unaware that the property or service was that of another; or

(b) Acted under a claim of right to the property or service involved or a claim that he had a right to acquire or dispose of it as he did; or

(c) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

(2) It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it involves the property of the other spouse and only if it occurs after the parties have ceased living together.

Section 119. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 120. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by deception when he obtains property of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record.

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) Theft by deception is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 121. A new section of KRS Chapter 514 is created to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 122. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) Theft of services is a Class A misdemeanor unless the value of the service is \$100 or more, in which case it is a Class D felony.

Section 123. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of Subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employee of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

(i) He fails to account or pay upon lawful demand; or

(ii) An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

Section 124. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
- (b) Accuse anyone of a criminal offense; or
- (c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or
- (d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or
- (e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
- (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is \$100 or more, in which case it is a Class D felony.

Section 125. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

- (a) The issuer had no account with the drawee at the time the check or order was issued; or
- (b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is \$100 or more, in which case it is a Class D felony.

Section 126. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of the unauthorized use of an automobile or other propelled vehicle when he knowingly operates, exercises control over, or otherwise uses such vehicle without consent of the owner or person having legal possession thereof.

(2) Unauthorized use of automobiles or other propelled vehicle is a Class A misdemeanor.

Section 127. A new section of KRS 514 is created to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is \$100 or more, in which case it is a Class D felony.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

Section 128. A new section of KRS Chapter 514 is created to read as follows:

(1) A person is guilty of obscuring the identity of a machine when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any automobile or other propelled vehicle, machine, or electrical or mechanical device with intent to render it unidentifiable; or

(b) Possesses for the purpose of sale in the course of business any automobile or other propelled vehicle, machine, or electrical or mechanical device knowing that the serial number or other identification number or mark has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine or electrical or mechanical device held for sale in the course of business on which the serial number or any other distinguishing identification number or mark has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A report by the defendant to the police or other appropriate government agency prior to arrest or authorization of a warrant by a court is a defense to a charge of violating subsection (1)(b).

(4) Obscuring the identity of a machine is a Class A misdemeanor.

Section 129. KRS Chapter 515 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter, unless the context otherwise requires:

"Physical force" means force used upon or directed toward the body of another person.

Section 130. A new section of KRS Chapter 515 is created to read as follows:

(1) A person is guilty of robbery in the first degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft and when he:

- (a) Causes physical injury to any person who is not a participant in the crime; or
- (b) Is armed with a deadly weapon; or
- (c) Uses or threatens the immediate use of a dangerous instrument upon any person who is not a participant in the crime.

(2) Robbery in the first degree is a Class B felony.

Section 131. A new section of KRS Chapter 515 is created to read as follows:

(1) A person is guilty of robbery in the second degree when, in the course of committing theft, he uses or threatens the immediate use of physical force upon another person with intent to accomplish the theft.

(2) Robbery in the second degree is a Class C felony.

Section 132. KRS Chapter 516 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Written instrument" means any instrument or article containing written or printed matter or its equivalent used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

(2) "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.

(3) "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.

(4) To "falsely alter" a written instrument means to change, without the authority of anyone entitled to grant it, a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

(5) To "falsely complete" a written instrument means to transform, by adding, inserting or changing matter, an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that the complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer.

(6) To "falsely make" a written instrument means to make or draw a complete written instrument in its entirety or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof.

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

(8) "Coin machine" means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed:

- (a) To receive a coin or bill or token made for the purpose; and
- (b) In return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or service.

(9) "Slug" means an object or article which by virtue of its size, shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as an improper substitute for a genuine coin, bill or token.

(10) "Value of the slug" means the value of the coin, bill or token for which it is capable of being substituted.

Section 133. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of forgery in the first degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

(a) Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental agency; or

(b) Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.

(2) Forgery in the first degree is a Class C felony.

Section 134. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

(a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

(b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or

(c) A written instrument officially issued or created by a public office, public employee or governmental agency.

(2) Forgery in the second degree is a Class D felony.

Section 135. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of forgery in the third degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument.

(2) Forgery in the third degree is a Class A misdemeanor.

Section 136. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the first degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 133 of this Act.

(2) Criminal possession of a forged instrument in the first degree is a Class C felony.

Section 137. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 134 of this Act.

(2) Criminal possession of a forged instrument in the second degree is a Class D felony.

Section 138. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal possession of a forged instrument in the third degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument.

(2) Criminal possession of a forged instrument in the third degree is a Class A misdemeanor.

Section 139. A new section of KRS Chapter 516 is created to read as follows:

A person may not be convicted of both forgery and criminal possession of a forged instrument with respect to the same instrument.

Section 140. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of possession of a forgery device when he:

(a) Makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment or article specifically designed or adapted for use in forging written instruments; or

(b) Makes or possesses with knowledge of its character any device, apparatus, equipment or article capable of or adaptable to use in forging written instruments with intent to use it himself or to aid or permit another to use it for purposes of forgery.

(2) Possession of a forgery device is a Class D felony.

Section 141. A new section of KRS Chapter 516 is created to read as follows:

Any forgery device which is made, possessed or used in violation of this chapter is forfeited to the state and shall be disposed of in accordance with Section 9 of this Act.

Section 142. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of criminal simulation when:

(a) With intent to defraud, he makes or alters any object in such manner that it appears to have an antiquity, rarity, source or authorship which it does not in fact possess; or

(b) With knowledge of its character and with intent to defraud, he possesses an object so simulated.

(2) Criminal simulation is a Class A misdemeanor.

Section 143. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of unlawfully using slugs in the first degree when:

(a) He makes, possesses or disposes of slugs with intent to enable a person to insert, deposit or use them in a coin machine; and

(b) The value of such slugs exceeds \$100.

(2) Unlawfully using slugs in the first degree is a Class D felony.

Section 144. A new section of KRS Chapter 516 is created to read as follows:

(1) A person is guilty of unlawfully using slugs in the second degree when:

(a) With intent to defraud the owner, licensee or lessee of a coin machine, he inserts, deposits or uses a slug in such machine; or

(b) He makes, possesses or disposes of a slug with intent to enable a person to insert, deposit or use it in a coin machine.

(2) Unlawfully using slugs in the second degree is a Class B misdemeanor.

Section 145. KRS Chapter 517 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.

(2) "Business record" means any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

(3) "Enterprise" means any entity of one or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity.

(4) "Fiduciary" means a trustee, guardian, executor, administrator, receiver and any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary.

(5) "Misabeled" means:

(a) Varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or

(b) Represented as being another person's product, though otherwise labeled accurately as to quality or quantity.

Section 146. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of deceptive business practices when, in the course of engaging in a business, occupation or profession, he knowingly:

(a) Uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; or

(b) Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; or

(c) Takes or attempts to take more than the represented quantity of any commodity, thing or service when as a buyer, agency or receiver he furnishes the weight, measure, or weighing or measuring device by means of which the amount of the commodity, thing or service is determined; or

(d) Sells, offers or exposes for sale adulterated commodities; or

(e) Sells, offers or exposes for sale mislabeled commodities.

(2) Deceptive business practices is a Class A misdemeanor.

Section 147. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of false advertising when, in connection with the promotion of the sale of or to increase the consumption of property or services, he knowingly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

(2) False advertising is a Class A misdemeanor.

Section 148. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of bait advertising when in any manner, including advertising or other means of communication, he offers to the public or a substantial number of persons property or services as part of a scheme or plan with the intent not to sell or provide the advertised property or services:

(a) At the price at which he offered them; or

(b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(c) At all.

(2) Bait advertising is a Class A misdemeanor.

Section 149. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of falsifying business records when, with intent to defraud, he:

(a) Makes or causes a false entry to be made in the business records of an enterprise; or

(b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or

(c) Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or

(d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

(2) Falsifying business records is a Class A misdemeanor.

Section 150. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of defrauding secured creditors when he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with intent unlawfully to hinder enforcement of that interest.

(2) Defrauding secured creditors is a Class A misdemeanor.

Section 151. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of defrauding judgment creditors when he secretes, assigns, conveys or otherwise disposes of his property with intent to defraud a judgment creditor or to prevent that property from being

subjected to payment of a judgment.

(2) Defrauding judgment creditors is a Class A misdemeanor.

Section 152. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of fraud in insolvency when, knowing that proceedings have been or are about to be instituted for the appointment of a receiver or other person entitled to administer property for the benefit of creditors, or that any other composition or liquidation for the benefit of creditors has been or is about to be made, he:

(a) Destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with intent to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

(b) Knowingly falsifies any writing or record relating to the property; or

(c) Knowingly misrepresents or refuses to disclose to a receiver or other person entitled to administer property for the benefit of creditors, the existence, amount or location of the property, or any other information which the actor would be legally required to furnish to such administration.

(2) Fraud in insolvency is a Class A misdemeanor.

Section 153. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of issuing a false financial statement when, with intent to defraud, he:

(a) Knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of himself or of some other person and which is inaccurate in some material respect; or

(b) Represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to that person's financial condition or ability to pay, knowing the instrument to be materially inaccurate in that respect.

(2) Issuing a false financial statement is a Class A misdemeanor.

Section 154. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of receiving deposits in a failing financial institution when, as an officer, manager or other person participating in the direction of a financial institution, he knowingly receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent.

(2) A financial institution is insolvent within the meaning of this section when it is unable to pay its obligations in the ordinary or usual course of business for any reason.

(3) Receiving deposits in a failing financial institution is a Class D felony.

Section 155. A new section of KRS Chapter 517 is created to read as follows:

(1) A person is guilty of misapplication of entrusted property when he applies or disposes of property that has been entrusted to him as a fiduciary, or property of the government or of a financial institution in a manner which he knows is unauthorized and involves substantial risk of loss or detriment to the owner of the property or to a person for whose benefit the property was entrusted.

(2) Misapplication of entrusted property is a Class A misdemeanor.

Section 156. KRS Chapter 518 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Event" means a sports contest to which the general public is not admitted without consideration.

(3) "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals that is viewed by the public.

(4) "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest.

(5) "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.

Section 157. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of commercial bribery when he:

(a) Offers, confers or agrees to confer any benefit upon any employee or agent without the consent of the latter's employer or principal with intent to influence his conduct contrary to his employer's or principal's best interests; or

(b) Offers, confers or agrees to confer any benefit upon any fiduciary without the consent of the latter's beneficiary with intent to influence him to act or conduct himself contrary to his fiduciary obligation.

(2) Commercial bribery is a Class A misdemeanor.

Section 158. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of receiving a commercial bribe when:

(a) As an employee or agent, and without the consent of his employer or principal, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his employer's or principal's best interest; or

(b) As a fiduciary, and without the consent of his beneficiary, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence his conduct contrary to his fiduciary obligation.

(2) Receiving a commercial bribe is a Class A misdemeanor.

Section 159. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of sports bribery when he:

(a) Offers, confers or agrees to confer any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or

(b) Offers, confers or agrees to confer any benefit upon a sports official with intent to influence him to perform his duties improperly.

(2) Sports bribery is a Class D felony.

Section 160. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of receiving a sports bribe when:

(a) Being a sports participant, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or

(b) Being a sports official, he knowingly solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly.

(2) Receiving a sports bribe is a Class D felony.

Section 161. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of tampering with or rigging a sports contest when, with intent to influence the outcome of a sports contest, he:

(a) Tampers with any sports participant or sports official or with any animal other than a horse, equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules governing the sports contest in question; or

(b) Substitutes a sports participant, animal, equipment or other thing involved in the conduct or operation of a sports contest for the genuine person, animal or thing.

(2) Tampering with or rigging a sports contest is a Class A misdemeanor.

Section 162. A new section of KRS Chapter 518 is created to read as follows:

(1) A person is guilty of ticket scalping when he intentionally sells or offers to sell a ticket to an event at a price greater than that charged at the place of admission or printed on the ticket, unless authorized by the issuer or by law.

(2) Ticket scalping is a violation.

Section 163. KRS Chapter 519 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves.

(2) "Public record" includes all official books, papers, exhibits or records created by or received and retained in any governmental office or agency.

(3) "Public servant" means:

(a) Any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employee; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

Section 164. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of obstructing governmental operations when he intentionally obstructs, impairs or hinders the performance of a governmental function by using or threatening to use violence, force or physical interference.

(2) This section shall not apply to:

(a) Any means of avoiding compliance with the law without affirmative interference with governmental functions; or

(b) The obstruction, impairment or hindrance of unlawful action by a public servant; or

(c) The obstruction, impairment or hindrance of an arrest.

(3) Obstructing governmental operations is a Class A misdemeanor.

Section 165. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of compounding a crime when:

(a) He solicits, accepts or agrees to accept any benefit upon an agreement or understanding that he will refrain from initiating a prosecution for a crime; or

(b) He confers, offers, or agrees to confer any benefit upon another person upon agreement or understanding that such other person will refrain from initiating a prosecution for a crime.

(2) In any prosecution under this section, it is a defense that the benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the offense.

(3) Compounding a crime is a Class A misdemeanor.

Section 166. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of falsely reporting an incident when he:

(a) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, that deals with emergencies involving danger to life or property; or

(b) Reports to law enforcement authorities an offense or incident within their official concern knowing that it did not occur; or

(c) Furnishes law enforcement authorities with information allegedly relating to an offense or incident within their official concern when he knows he has no information relating to such offense or incident; or

(d) Knowingly gives false information to any law enforcement officer with intent to implicate another; or

(e) Initiates or circulates a report or warning of an alleged occurrence or impending occurrence of a fire or other emergency under circumstances likely to cause public inconvenience or alarm when he knows the information reported, conveyed or circulated is false or baseless.

(2) Falsely reporting an incident is a Class A misdemeanor.

Section 167. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of impersonating a public servant if he pretends to be a public servant with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant is a Class A misdemeanor.

Section 168. A new section of KRS Chapter 519 is created to read as follows:

(1) A person is guilty of tampering with public records when:

(a) He knowingly makes a false entry in or falsely alters any public record; or

(b) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise impairs the availability of any public records; or

(c) Knowing he lacks the authority to retain it, he refuses to deliver up a public record in his possession upon proper request of a public servant lawfully entitled to receive such record for examination or other purposes.

(2) Tampering with public records is a Class A misdemeanor.

Section 169. KRS Chapter 520 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order.

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail.

(3) "Dangerous contraband" means contraband which is capable of such use as may endanger the safety or security of a detention facility or persons therein.

(4) "Detention facility" means any place used for the confinement of a person:

(a) Charged with or convicted of an offense; or

(b) Alleged or found to be delinquent; or

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes.

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that such departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

Section 170. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the first degree when he escapes from custody or a detention facility by the use of force or threat of force against another person.

(2) Escape in the first degree is a Class C felony.

Section 171. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the second degree when he escapes from a detention facility or, being charged with or convicted of a felony, he escapes from custody.

(2) Escape in the second degree is a Class D felony.

Section 172. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of escape in the third degree when he escapes from custody.

(2) Escape in the third degree is a Class B misdemeanor.

Section 173. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of promoting contraband in the first degree when:

(a) He knowingly introduces dangerous contraband into a detention facility; or

(b) Being a person confined in a detention facility, he knowingly makes, obtains or possesses dangerous contraband.

(2) Promoting contraband in the first degree is a Class D felony.

Section 174. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of promoting contraband in the second degree when:

(a) He knowingly introduces contraband into a detention facility; or

(b) Being a person confined in a detention facility, he knowingly makes, obtains or possesses contraband.

(2) Promoting contraband in the second degree is a Class A misdemeanor.

Section 175. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of bail jumping in the first degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a felony, he intentionally fails to appear at that time and place.

(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(3) Bail jumping in the first degree is a Class D felony.

Section 176. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of bail jumping in the second degree when, having been released from custody by court order, with or without bail, upon condition that he will subsequently appear at a specified time and place in connection with a charge of having committed a misdemeanor, he intentionally fails to appear at that time and place.

(2) In any prosecution for bail jumping, the defendant may prove in exculpation that his failure to appear was unavoidable and due to circumstances beyond his control.

(3) Bail jumping in the second degree is a Class A misdemeanor.

Section 177. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a peace officer, recognized to be acting under color of his official authority, from effecting an arrest of the actor or another by:

(a) Using or threatening to use physical force or violence against the peace officer or another; or

(b) Using any other means creating a substantial risk of causing physical injury to the peace officer or another.

(2) Resisting arrest is a Class A misdemeanor.

Section 178. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of resisting an order to stop a motor vehicle when he knowingly fails to obey a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.

(2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.

(3) Resisting an order to stop a motor vehicle is a Class A misdemeanor.

Section 179. A new section of KRS Chapter 520 is created to read as follows:

(1) For the purposes of sections 180 and 181 of this Act, a person renders assistance to another when he:

(a) Harbors or conceals such person; or

(b) Warns such person of impending discovery or apprehension, except that this does not apply to a warning given in connection with an effort to bring another into compliance with law; or

(c) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

(d) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person; or

(e) Volunteers false information to a law enforcement officer; or

(f) Suppresses by an act of concealment, alteration or destruction any physical evidence that might aid in the discovery or apprehension of such person.

(2) In any prosecution for hindering prosecution or apprehension it is a defense that the accused is the spouse, parent, child, brother, sister, grandparent or grandchild of the person whose discovery or apprehension he sought to prevent.

Section 180. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of hindering prosecution or apprehension in the first degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another whom he knows is being sought in connection with the commission of a capital offense or Class A felony, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the first degree is a Class D felony.

Section 181. A new section of KRS Chapter 520 is created to read as follows:

(1) A person is guilty of hindering prosecution or apprehension in the second degree when, with the intent to hinder the apprehension, prosecution, conviction or punishment of another who is being sought in connection with the commission of a criminal offense, he renders assistance to such person.

(2) Hindering prosecution or apprehension in the second degree is a Class A misdemeanor.

Section 182. KRS Chapter 521 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

Section 183. A new section of KRS Chapter 521 is created to read as follows:

(1) A person is guilty of bribery of a public servant when:

(a) He offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, exercise of discretion or other action in his official capacity as a public servant; or

(b) While a public servant, he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public servant will thereby be influenced.

(2) It is a defense under this section if a person confers or agrees to confer any pecuniary benefit upon a public servant as a result of conduct of the public servant which constitutes extortion or coercion.

(3) It is no defense to a prosecution under this section that the person sought to be influenced was not qualified to act in the desired way because he had not yet assumed office, lacked jurisdiction, or for any other reason.

(4) Bribery of a public servant is a Class D felony.

Section 184. A public servant is guilty of soliciting unlawful compensation when he requests a pecuniary benefit for the performance of an official action knowing that he was required to perform that action without compensation or at a level of compensation lower than that requested.

(2) Solicitation of unlawful compensation is a Class B misdemeanor.

Section 185. A new section of KRS Chapter 521 has been created to read as follows:

(1) A person is guilty of unlawful compensation for assistance in public matters when:

(a) While a public servant, he solicits, accepts or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim or other transaction or proposal as to which he knows that he is likely to have an official discretion to exercise; or

(b) He offers, pays or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction with knowledge that acceptance by the public servant is unlawful.

(2) Unlawful compensation for assistance in public matters is a Class A misdemeanor.

Section 186. KRS Chapter 522 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(2) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

Section 187. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of official misconduct in the first degree when, with intent to obtain or confer a benefit or to injure another person or to deprive another person of a benefit, he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the first degree is a Class A misdemeanor.

Section 188. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of official misconduct in the second degree when he knowingly:

(a) Commits an act relating to his office which constitutes an unauthorized exercise of his official functions; or

(b) Refrains from performing a duty imposed upon him by law or clearly inherent in the nature of his office; or

(c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Official misconduct in the second degree is a Class B misdemeanor.

Section 189. A new section of KRS Chapter 522 is created to read as follows:

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action; or

(b) Speculates or wagers on the basis of such information or official action; or

(c) Aids another to do any of the foregoing.

(2) Misuse of confidential information is a Class D felony.

Section 190. KRS Chapter 523 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Material false statement" means any false statement, regardless of its admissibility under the rules of evidence which could have affected the outcome of the proceeding. Whether a falsification is material in a given factual situation is a question of law.

(2) "Oath" means an affirmation or other legally authorized manner of attesting to the truth of a statement. A written statement shall be treated as if made under oath when:

(a) The statement was made on or pursuant to a form bearing notice, authorized by law, that false statements made therein are punishable; or

(b) The document recites that the statement was made under oath, and;

(i) The declarant was aware of such recitation at the time he made the statement;

(ii) The declarant intended that the statement be represented as sworn; and

(iii) The statement was in fact so represented by its delivery or utterance with the signed jurat of an officer, authorized to administer oaths appended thereto.

(3) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

(4) "Required or authorized by law" means the oath is provided for by statute, regulation, court rule, or otherwise by law.

(5) "Statement" means any representation, but includes a representation of opinion, belief or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation.

(6) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

Section 191. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of perjury in the first degree when he makes a material false statement, which he does not believe, in any official proceeding under an oath required or authorized by law.

(2) Perjury in the first degree is a Class D felony.

Section 192. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of perjury in the second degree when he makes a material false statement which he does not believe in a subscribed written instrument for which an oath is required or authorized by law with the intent to mislead a public servant in the performance of his official functions.

(2) Perjury in the second degree is a Class A misdemeanor.

Section 193. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of false swearing when he makes a false statement which he does not believe under oath required or authorized by law.

(2) False swearing is a Class B misdemeanor.

Section 194. A new section of KRS Chapter 523 is created to read as follows:

(1) When a person has made inconsistent statements under oath, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single charge alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(2) The highest offense of which a person may be convicted in such an instance shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two statements, the person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two statements, the person may only be convicted of false swearing.

Section 195. A new section of KRS Chapter 523 is created to read as follows:

In any prosecution for perjury or false swearing, except prosecution based upon inconsistent statements pursuant to section 194 of this Act, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.

Section 196. A new section of KRS Chapter 523 is created to read as follows:

No prosecution shall be brought under this chapter when the substance of the defendant's false statement is his denial of guilt in a previous criminal trial.

Section 197. A new section of KRS Chapter 523 is created to read as follows:

It is not a defense to prosecution under this chapter that:

(1) The oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement; or

(2) The court in which the acts constituting the offense were committed lacked jurisdiction over the person of the accused or the subject matter.

Section 198. A new section of KRS Chapter 523 is created to read as follows:

No person shall be guilty of an offense under this chapter if he retracted the falsification in the course of the proceeding in which it was made before such false statement substantially affected the proceeding and before it became manifest that its falsity was or would be exposed.

Section 199. A new section of KRS Chapter 523 is created to read as follows:

(1) A person is guilty of unsworn falsification to authorities when, with an intent to mislead a public servant in the performance of his duty, he:

(a) Makes a material false written statement, which he does not believe, in an application for any pecuniary or other benefit or in a record required by law to be submitted to any governmental agency; or

(b) Submits or invites reliance on any writing which he knows to be a forged instrument, as defined in subsection (7) of section 132 of this Act; or

(c) Submits or invites reliance on any sample, specimen, map, boundary mark or other object he knows to be false.

(2) Unsworn falsification to authorities is a Class B misdemeanor.

Section 200. KRS Chapter 524 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Juror" means a person who is a member of any impaneled jury, including a grand jury, and includes any person who has been drawn or summoned to attend as a prospective juror.

(2) "Physical evidence" means any article, object, document, record or other thing of physical substance.

(3) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative or other governmental agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or depositions in any such proceedings.

Section 201. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribing a witness when he offers, confers or agrees to confer any pecuniary benefit upon a witness or a person he believes may be called as a witness in any official proceeding with intent to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to avoid legal process summoning him to testify; or
- (c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a Class D felony.

Section 202. A new section of KRS Chapter 524 is created to read as follows:

(1) A witness or a person believing he may be called as a witness in any official proceeding is guilty of bribe receiving by a witness when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that:

- (a) His testimony will thereby be influenced; or
- (b) He will attempt to avoid legal process summoning him to testify; or
- (c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribe receiving by a witness is a Class D felony.

Section 203. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of intimidating a witness when, by use of a threat directed to a witness or a person he believes may be called as a witness in any official proceeding, he:

- (a) Influences, or attempts to influence, the testimony of that person; or
- (b) Induces, or attempts to induce, that person to avoid legal process summoning him to testify; or
- (c) Induces, or attempts to induce, that person to absent himself from an official proceeding to which he has been legally summoned.

(2) "Threat" as used in this section means any threat proscribed in section 124 of this Act.

(3) Intimidating a witness is a Class D felony.

(i) "Threat" as used in this section means any threat proscribed in Section 124 of this Act.

(ii) Intimidating a witness is a Class D felony.

Section 204. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of tampering with a witness when, knowing that a person is or may be called as a witness in an official proceeding, he:

- (a) Induces or attempts to induce the witness to absent himself or otherwise avoid appearing or testifying at the official proceeding with intent to influence the outcome thereby; or
- (b) Knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of the witness.

(2) Tampering with a witness is a Class A misdemeanor.

Section 205. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribing a juror when he offers, confers or agrees to confer any pecuniary benefit upon a juror with intent to influence the juror's vote, opinion, decision or other action as a juror.

(2) Bribing a juror is a Class D felony.

Section 206. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of bribe receiving by a juror when he solicits, accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that his vote, opinion, decision or other action as a juror will thereby be influenced.

(2) Bribe receiving by a juror is a Class D felony.

Section 207. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of intimidating a juror when, by use of a threat, he influences or attempts to influence a juror's vote, opinion, decision or other action as a juror.

(2) "Threat" as used in this section means any threat proscribed in section 124 of this Act.

(3) Intimidating a juror is a Class D felony.

Section 208. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of jury tampering when, with intent to influence a juror's vote, opinion, decision or other action in a case, he communicates or attempts to communicate, directly or indirectly, with a juror other than as a part of the proceedings in the trial of the case.

(2) Jury tampering is a Class A misdemeanor.

Section 209. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of tampering with physical evidence when, believing that an official proceeding is pending or may be instituted, he:

(a) Destroys, mutilates, conceals, removes or alters physical evidence which he believes is about to be produced or used in the official proceeding with intent to impair its verity or availability in the official proceeding; or

(b) Fabricates any physical evidence with intent that it be introduced in the official proceeding or offers any physical evidence, knowing it to be fabricated or altered.

(2) Tampering with physical evidence is a Class D felony.

Section 210. A new section of KRS Chapter 524 is created to read as follows:

(1) A person is guilty of simulating legal process when he delivers or causes to be delivered to another a request for the payment of money on behalf of a creditor knowing that in form and substance it simulates any legal process issued by any court of this state.

(2) Simulating legal process is a Class B misdemeanor.

Section 211. KRS Chapter 525 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Desecrate" means defacing, damaging, polluting or otherwise physically mistreating in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover his action.

(2) "Public" means affecting or likely to affect a substantial group of persons.

(3) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

(4) "Transportation facility" means any conveyance, premises or place used for or in connection with public passenger transportation by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

(5) "Riot" means a public disturbance involving an assemblage of five or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.

Section 212. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of riot in the first degree when:

(a) He knowingly participates in a riot; and

(b) In the course of and as a result of such riot a person other than one of the participants suffers physical injury or substantial property damage occurs.

(2) Riot in the first degree is a Class D felony.

Section 213. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of riot in the second degree when he knowingly participates in a riot.

(2) Riot in the second degree is a Class A misdemeanor.

Section 214. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of inciting to riot when he incites or urges five or more persons to create or engage in a riot.

(2) Inciting to riot is a Class A misdemeanor.

Section 215. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of unlawful assembly when:

(a) He assembles with five or more persons for the purpose of engaging or preparing to engage with them in a riot; or

(b) Being present at an assembly which either has or develops such a purpose, he remains there with intent to advance that purpose.

(2) Unlawful assembly is a Class B misdemeanor.

Section 216. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of disorderly conduct when in a public place and with intent to cause public inconvenience, annoyance or alarm, or wantonly creating a risk thereof, he:

(a) Engages in fighting or in violent, tumultuous or threatening behavior; or

(b) Makes unreasonable noise; or

(c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

(2) Disorderly conduct is a Class B misdemeanor.

Section 217. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of harassment when with intent to harass, annoy or alarm another person he:

(a) Strikes, shoves, kicks or otherwise subjects him to physical contact or attempts or threatens to do the same; or

(b) In a public place, makes an offensively coarse utterance, gesture or display, or addresses abusive language to any person present; or

(c) Follows a person in or about a public place or places; or

(d) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(2) Harassment is a violation.

Section 218. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of harassing communications when with intent to harass, annoy or alarm another person he:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm; or

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Section 219. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia; or

(b) Loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution; or

(c) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(d) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(e) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services [or for the purpose of entertaining persons by singing, dancing or playing any musical instrument];

(2) Loitering is a violation.

Section 220. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of public intoxication when he appears in a public place manifestly under the influence of alcohol, or a controlled substance, or other intoxicating substance, not therapeutically administered, to the degree that he may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity.

(2) Public intoxication is a Class B misdemeanor.

Section 221. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of desecration of venerated objects when he intentionally:

(a) Desecrates any public monument or object or place of worship or burial; or

(b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects is a Class A misdemeanor.

Section 222. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities.

(2) Abuse of a corpse is a Class A misdemeanor.

Section 223. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of cruelty to animals when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, causing it to fight for pleasure or profit, mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal; or

(d) Cruelty to animals is a Class A misdemeanor.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

- (b) Incident to the processing as food or for other commercial purposes;
- (c) For humane purposes;
- (d) For any other purpose authorized by law.
- (2) Cruelty to animals is a Class B misdemeanor.

Section 224. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of obstructing a highway or other public passage when having no legal privilege to do so he, alone or with other persons, intentionally or wantonly renders any highway or public passage impassable without unreasonable inconvenience or hazard.

(2) No person shall be convicted under this section solely because of a gathering of persons to hear him speak or otherwise communicate or solely because of being a member of such a gathering.

(3) An order to disperse issued by a peace officer or other public servant engaged in executing or enforcing the law and addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall not be deemed lawful if the obstruction can be readily remedied by police control of the size or location of the gathering.

(4) Obstructing a highway or other public passage is a Class B misdemeanor.

Section 225. A new section of KRS Chapter 525 is created to read as follows:

(1) A person is guilty of disrupting meetings and processions when with intent to prevent or disrupt a lawful meeting, procession or gathering, he does any act tending to obstruct or interfere with it physically or makes any utterance, gesture or display designed to outrage the sensibilities of the group.

(2) Disrupting meetings and processions is a Class B misdemeanor.

Section 226. KRS Chapter 526 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter, unless the context otherwise requires:

"Eavesdrop" means to overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.

Section 227. A new section of KRS 526 is created to read as follows:

(1) A person is guilty of eavesdropping when he intentionally uses any device to eavesdrop, whether or not he is present at the time.

(2) Eavesdropping is a Class D felony.

Section 228. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of installing an eavesdropping device when he intentionally installs or places such a device in any place with the knowledge that it is to be used for eavesdropping.

(2) Installing an eavesdropping device is a Class D felony.

Section 229. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of possession of an eavesdropping device when he possesses any electronic, mechanical or other device designed or commonly used for eavesdropping with intent to use that device to eavesdrop or knowing that another intends to use that device to eavesdrop.

(2) Possession of an eavesdropping device is a Class A misdemeanor.

Section 230. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of tampering with private communications when knowing that he does not have the consent of the sender or receiver, he unlawfully:

(a) Opens or reads a sealed letter or other sealed private communication; or

(b) Obtains in any manner from an employe, officer or representative of a communications common carrier information with respect to the contents or nature of a communication.

(2) The provisions of this section do not apply to the censoring of sealed letters or sealed communications for security purposes in official detention or penal facilities.

(3) Tampering with private communications is a Class A misdemeanor.

Section 231. A new section of KRS Chapter 526 is created to read as follows:

(1) A person is guilty of divulging illegally obtained information when he knowingly uses or divulges information obtained through eavesdropping or tampering with private communications or learned in the course of employment with a communications common carrier engaged in transmitting the message.

(2) Divulging illegally obtained information is a Class A misdemeanor.

Section 232. A new section of KRS Chapter 526 is created to read as follows:

A person is not guilty under this chapter when he:

(1) Inadvertently overhears the communication through a regularly installed telephone party line or on a telephone extension but does not divulge it; or

(2) Is an employe of a communications common carrier who, while acting in the course of his employment, hears a communication transmitted through the facilities of his employer but does not divulge it.

Section 233. A new section of KRS Chapter 526 is created to read as follows:

Any electronic, mechanical or other device designed or commonly used for eavesdropping which is possessed or used in violation of this chapter, is forfeited to the state and shall be disposed of in accordance

with Section 9 of this Act.

Section 234. KRS Chapter 527 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark.
- (2) "Firearm" means any weapon which will expel a projectile by the action of an explosive.
- (3) "Handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand.

Section 236. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban county governments may carry concealed deadly weapons on or about their persons at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

Section 236. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of defacing a firearm when he intentionally defaces a firearm.

(2) Defacing a firearm is a Class A misdemeanor.

Section 237. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of possession of a handgun by a convicted felon when he possesses, manufactures, or transports a handgun when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States, or

(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended, and

(2) Possession of a handgun by a convicted felon is a Class D felony.

(3) The provisions of this section shall apply only to persons convicted after the effective date of this Act.

Section 238. A new section of KRS Chapter 527 is created to read as follows:

(1) A person is guilty of possession of a defaced firearm when he knowingly possesses a defaced firearm unless he makes a report to the police or other appropriate government agency of such possession prior to arrest or authorization of a warrant by a court.

(2) Possession of a defaced firearm is a Class A misdemeanor.

Section 239. A new section of KRS Chapter 527 is created to read as follows:

Upon the conviction of any person for the violation of any law of this Commonwealth in which a deadly weapon was used, displayed or unlawfully possessed by such person the court shall order the weapon forfeited to the state and sold, destroyed or otherwise disposed of in accordance with Section 9 of this Act.

Section 240. KRS Chapter 528 is established and a new section thereof is created to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity"--A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the establishment of the particular game, contest, scheme, device or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device (including but not limited to roulette wheels, gambling tables and similar devices) designed and manufactured primarily for the use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(c) But, the following are not to be considered gambling devices within this definition:

(i) Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

(ii) Electro-mechanical pinball machines specially designed, constructed, set up and kept to be played for amusement only; provided any such pinball machine shall be made to receive and react to the deposit of one five or ten cent coin and no more during the course of a game; provided the ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any such pinball machine shall be the right to play one or more additional games immediately on the same device at no further cost; provided the maximum number of free games that can be won, registered, or accumulated at one time in operation of any such pinball machine shall not exceed thirty free games; provided any such pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released; and provided any such pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums or property of any kind for scores, combinations or free games obtained in playing such pinball machine in which such person has an interest as owner, operator, keeper or otherwise.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

(i) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one or more of which are to be designated the winning ones; and

(ii) The winning chances are to be determined by a drawing or by some other method based upon the element of chance; and

(iii) The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in subsection (5)(a) is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity"--A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

Section 241. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by:

(a) Engaging in bookmaking to the extent that he employs or utilizes three or more persons in a bookmaking activity and receives or accepts in any one day bets totaling more than \$500; or

(b) Receiving in connection with a lottery or mutuel scheme or enterprise:

(i) Money or written records from a person other than a player whose chances or plays are represented by such money or records; or

- (ii) More than \$500 in any one day of money played in the scheme or enterprise; or
- (c) Setting up and operating a gambling device.

(2) Promoting gambling in the first degree is a Class D felony.

Section 242. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of promoting gambling in the second degree when he knowingly advances or profits from unlawful gambling activity.

(2) Promoting gambling in the second degree is a Class A misdemeanor.

Section 243. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of conspiracy to promote gambling when he conspires to advance or profit from gambling activity.

(2) "Conspire" means to engage in activity constituting a criminal conspiracy as defined in Section 52 of this Act.

(3) Conspiracy to promote gambling is a Class D felony.

Section 244. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article of a kind commonly used:

(a) In the operation or promotion of a bookmaking scheme or enterprise and constituting, reflecting or representing bets totaling more than \$500; or

(b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise and constituting, reflecting or representing more than 500 plays or chances therein.

(2) It shall be a defense to any prosecution under this section that:

(a) The writing, paper, instrument or article possessed by the defendant constituted, reflected or represented bets of the defendant himself in a number not exceeding ten; or

(b) The writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.

(3) Possession of gambling records in the first degree is a Class D felony.

Section 245. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of gambling records in the second degree when, with knowledge of the contents thereof he possesses any writing, paper instrument or articles of a kind commonly used:

(a) In the operation or promotion of a bookmaking scheme or enterprise; or

(b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise.

(2) It shall be a defense to any prosecution under this section that:

(a) The writing, paper, instrument, or article possessed by the defendant constituted, reflected, or represented bets of the defendant himself in a number not exceeding ten; or

(b) The writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.

(3) Possession of gambling records in the second degree is a Class A misdemeanor.

Section 246. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of permitting gambling when, having possession or control of premises which he knows are being used to advance gambling activity, he fails to halt or abate or attempt to halt or abate such use within a reasonable period of time.

(2) Permitting gambling is a Class B misdemeanor.

Section 247. A new section of KRS Chapter 528 is created to read as follows:

(1) A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses a gambling device or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing that it is to be used in the advancement of unlawful gambling activity.

(2) Possession of a gambling device is a Class A misdemeanor.

Section 248. A new section of KRS Chapter 528 is created to read as follows:

(1) Proof of possession of any gambling device or any gambling record specified in sections 244, 245 and 247 of this Act is prima facie evidence of possession thereof with knowledge of its character or contents.

(2) In any prosecution under this chapter in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation or evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of this chapter is alleged to have been committed shall be admissible in evidence and shall constitute prima facie proof of the occurrence of the event.

Section 249. A new section of KRS Chapter 528 is created to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with Section 9 of this Act.

Section 250. KRS Chapter 529 is established and a new section thereof is created to read as follows:
The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing prostitution"--A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

(2) "Profiting from prostitution"--A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity.

(3) "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs.

Section 251. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Prostitution is a Class B misdemeanor.

Section 252. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the first degree when he knowingly advances prostitution by compelling a person by force or intimidation to engage in prostitution or profits from such coercive conduct by another.

(2) Promoting prostitution in the first degree is a Class C felony.

Section 253. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the second degree when he knowingly:

(a) Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes; or

(b) Advances or profits from prostitution of a person less than eighteen years old.

(2) Promoting prostitution in the second degree is a Class D felony.

Section 254. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of promoting prostitution in the third degree when he knowingly advances or profits from prostitution.

(2) Promoting prostitution in the third degree is a Class A misdemeanor.

Section 255. A new section of KRS Chapter 529 is created to read as follows:

(1) No person shall be convicted of prostitution solely on the uncorroborated testimony of a patron.

(2) No person shall be convicted of promoting prostitution solely on the uncorroborated testimony of a person whose prostitution activity he is alleged to have advanced or from whose prostitution activity he is alleged to have profited.

Section 256. A new section of KRS Chapter 529 is created to read as follows:

(1) A person is guilty of permitting prostitution when, having possession or control of premises which he knows or has reasonable cause to know are being used for prostitution purposes, he fails to make reasonable and timely effort to halt or abate such use.

(2) Permitting prostitution is a Class B misdemeanor.

Section 257. KRS Chapter 530 is established and a new section thereof is created to read as follows:

(1) A person is guilty of bigamy when he:

(a) Purports to marry another person knowing he has a husband or wife or knowing the other person has a husband or wife; or

(b) Cohabits in this state after a bigamous marriage in another state.

(2) It shall be a defense to bigamy that the accused believed he was legally eligible to remarry.

(3) Bigamy is a Class D felony.

Section 258. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of incest when he has sexual intercourse with a person whom he knows to be an ancestor, descendant, brother or sister. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, and relationship of stepparent and stepchild.

(2) Incest is a Class C felony.

Section 259. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of concealing the birth of an infant when he conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.

(2) Concealing the birth of an infant is a Class A misdemeanor.

Section 260. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of abandonment of a minor when, as a parent, guardian or other person legally charged with the care or custody of a minor, he deserts the minor in any place under circumstances endangering his life or health and with intent to abandon him.

(2) Abandonment of a minor is a Class D felony.

Section 261. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of nonsupport when he persistently fails to provide support which he can provide and which he knows he has a duty to provide to a minor or incompetent child, indigent spouse or indigent parent.

(2) A person has a duty to provide support for an indigent spouse and for a minor or incompetent child and, for purposes of this section, is presumed to know of that duty.

(3) Any person who is eighteen years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(4) Nonsupport is a Class A misdemeanor.

Section 262. A new section of KRS Chapter 530 is created to read as follows:

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.

(2) Endangering the welfare of a minor is a Class A misdemeanor.

Section 263. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of unlawful transaction with a minor when:

(a) He knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) Acting other than as a retail licensee he knowingly induces, assists, or causes a minor to engage in illegal sexual activity, illegal controlled substances activity, illegal gambling activity or any other criminal activity; or

(c) He knowingly induces, assists or causes a minor to become a habitual truant; or

(d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor is a Class A misdemeanor.

Section 264. A new section of KRS Chapter 530 is created to read as follows:

(1) A person is guilty of endangering the welfare of an incompetent person when he knowingly acts in a manner which results in an injury to the physical or mental welfare of a person who is unable to care for himself because of mental disease or defect.

(2) Endangering the welfare of an incompetent person is a Class A misdemeanor.

Section 265. KRS Chapter 531 is established and a new section thereof is created to read as follows:

As used in this chapter:

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means that to the average person, applying contemporary standards, the predominant appeal of the matter, taken as a whole, is to prurient interest, a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters.

(4) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

Section 266. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

- (i) Prepares, or
- (ii) Publishes, or
- (iii) Prints, or
- (iv) Exhibits, or
- (v) Distributes, or
- (vi) Offers to distribute, or

(vii) Has in his possession with intent to distribute, exhibit or offer to distribute, any obscene matter.

(2) Distribution of obscene matter is a Class B misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this chapter, in which case it shall be a Class A misdemeanor.

Section 267. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly:

- (a) Sends or causes to be sent; or
- (b) Exhibits; or
- (c) Distributes, or offers to distribute,

obscene material to a minor.

(2) Distribution of obscene materials to minors is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or of Section 266 of this Act, in which case it shall be a Class D felony.

Section 268. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of using minors to distribute obscene material when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

- (a) Hires; or
- (b) Employs; or
- (c) Uses,

a minor to do or assist in doing any of the acts prohibited by section 266 of this Act.

(2) Using minors to distribute obscene material is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or section 267 of this Act, in which case it shall be a Class D felony.

Section 269. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of advertising obscene material when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of obscene matter.

(2) Advertising obscene material is a Class B misdemeanor.

Section 270. A new section of KRS Chapter 531 is created to read as follows:

(1) A person is guilty of promoting sale of obscenity when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter reasonably believed by the purchaser or consignee to be obscene, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of obscenity is a Class B misdemeanor for the first offense; a Class A misdemeanor for the second offense; and a Class D felony for each subsequent offense.

Section 271. A new section of KRS Chapter 531 is created to read as follows:

The prohibitions and penalties imposed in this chapter shall not extend to persons having a bona fide scientific, educational, governmental, or other similar justification for conduct which would, except for such justification, be criminal under this chapter.

Section 272. A new section of KRS Chapter 531 is created to read as follows:

(1) The jury, or the court, if a jury trial is waived, shall render a general verdict, and shall also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the _____ (title or description of matter) to be obscene," or, "We find the _____ (title or description of matter) not to be obscene," as they may find each item is or is not obscene.

(2) Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the attorney general, commonwealth's attorney, county attorney, city attorney or their

authorized assistants, or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

Section 273. KRS Chapter 532 is established and a new section thereof is created to read as follows:

- (1) Felonies are classified, for the purpose of sentencing, into five categories:
 - (a) Capital offenses;
 - (b) Class A felonies;
 - (c) Class B felonies;
 - (d) Class C felonies; and
 - (e) Class D Felonies.

Section 274. A new section of KRS Chapter 532 is created to read as follows:

(1) Any offense defined outside this code for which a law outside this code provides a sentence to a term of imprisonment in the state penitentiary or reformatory for:

- (a) At least one but not more than 5 years shall be deemed a Class D felony;
- (b) At least 5 but not more than 10 years shall be deemed a Class C felony;
- (c) At least 10 but not more than 20 years shall be deemed a Class B felony;
- (d) For 20 or more years shall be deemed a Class A felony.

(2) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum which falls between ninety days and twelve months shall be deemed a Class A misdemeanor.

(3) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum of less than ninety days shall be deemed a Class B misdemeanor.

(4) Any offense defined outside this code for which a law outside this code provides a sentence to a fine but no term of imprisonment shall be deemed a violation.

Section 275. A new section of KRS Chapter 532 is created to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death. However, any crime classified as a capital offense may at the discretion of the state be prosecuted as a Class A felony, provided such election to so prosecute is made at the time of indictment.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with section 278 of this Act.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

- (a) A term of imprisonment authorized by this chapter; or
- (b) A fine authorized by KRS Chapter 534; or
- (c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

Section 276. A new section of KRS Chapter 532 is created to read as follows:

When a person is convicted of an offense, other than a capital offense, the court, where authorized by KRS Chapter 533, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

Section 277. A new section of KRS Chapter 532 is created to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation and giving due consideration to a written report of such investigation.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The sources of confidential information need not, however, be disclosed.

Section 278. A new section of KRS Chapter 532 is created to read as follows:

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to section 279 of this Act.

(2) The authorized maximum terms of imprisonment for felonies are:

- (a) For a Class A felony, not less than twenty years nor more than life imprisonment;
- (b) For a Class B felony, not less than ten years nor more than twenty years;
- (c) For a Class C felony, not less than five years nor more than ten years; and
- (d) For a Class D felony, not less than one year nor more than five years.

(3) The actual time of release within the maximum established by subsection (1), or as modified pursuant to section 279 of this Act, shall be determined under procedures established elsewhere by law.

Section 279. A new section of KRS Chapter 532 is created to read as follows:

(1) When a sentence of imprisonment for a felony is fixed by a jury pursuant to section 278 of this Act and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that the maximum term fixed by the jury is unduly harsh, the court may modify that sentence and fix a maximum term within the limits provided in section 278 of this Act for the offense for which the defendant presently stands convicted.

(2) When a sentence of imprisonment for a Class D felony is fixed by a jury pursuant to section 278 of this Act and the trial court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose such a sentence, the court may sentence the defendant to a definite term of imprisonment in a county or a regional correctional institution for a term of one year or less.

Section 280. A new section of KRS Chapter 532 is created to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under section 278 of this Act for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (4) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (4) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender is a person who is more than twenty-one years of age and who stands convicted of a felony after having previously been convicted of two or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the defendant was imprisoned under sentence for such conviction prior to commission of the present felony.

(3) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(4) A person who is found to be a persistent felony offender shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment with life imprisonment as the maximum; or

(b) If the offense for which he presently stands convicted is a Class B felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(c) If the offense of which he presently stands convicted is a Class C or Class D felony, a persistent felony offender shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

Section 281. A new section of KRS Chapter 532 is created to read as follows:

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

(a) For a Class A misdemeanor, the term shall not exceed twelve months; and

(b) For a Class B misdemeanor, the term shall not exceed ninety days.

Section 282. A new section of KRS Chapter 532 is created to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

Section 283. A new section of KRS Chapter 532 is created to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, such multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by section 280 of this Act for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state such term of imprisonment and any period of reimprisonment that the Board of Parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution the sentence imposed for that offense may, upon order of the trial court be served in that institution.

Section 284. A new section of KRS Chapter 532 is created to read as follows:

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of such aggregate term.

(3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of such sentence shall be considered for all purposes as time served in prison.

(4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) if the defendant had been convicted of that charge shall be credited as provided in subsection (3) against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.

(5) If a person serving a sentence of imprisonment escapes from custody, the escape interrupts the sentence. The interruption continues until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

Section 285. KRS Chapter 533 is established and a new section thereof is created to read as follows:

(1) Any person who has been convicted of a crime and who has not been sentenced to death or life imprisonment without privilege of parole may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 286. A new section of KRS Chapter 533 is created to read as follows:

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance or direction that the probation service can provide. Conditions of probation shall be imposed as provided in section 287 of this Act, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in section 287 of this Act, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(3) The period of probation or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five years upon conviction of a felony nor two years upon conviction of a misdemeanor. Upon completion of the probationary period or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation or conditional discharge has not been revoked.

(4) Notwithstanding the fact that a sentence to probation or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 287. A new section of KRS Chapter 533 is created to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Make reparation or restitution, in an amount to be determined by the court, to an aggrieved party for damage or loss caused by his offense;

(e) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(f) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(g) Support his dependents and meet other family responsibilities;

(h) Pay the cost of the proceeding as set by the court;

(i) Remain within a specified area;

(j) Report to the probation officer as directed;

(k) Permit the probation officer to visit him at his home or elsewhere; and

(l) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.

(3) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(4) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement pursuant to this provision shall not exceed six

months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in custody under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment.

Section 288. A new section of KRS Chapter 533 is created to read as follows:

(1) A period of probation or conditional discharge commences on the day it is imposed. Multiple periods, whether imposed at the same or different times, run concurrently.

(2) If a court, as authorized by law, determines that a defendant violated the conditions of his probation or conditional discharge but reinstates probation or conditional discharge, the period between the date of the violation and the date of restoration of probation or conditional discharge is not computed as a part of the period of probation or conditional discharge.

(3) A sentence of probation or conditional discharge shall run concurrently with any federal or state jail, prison or parole term for another offense to which the defendant is or becomes subject during the period, unless such sentence of probation or conditional discharge is revoked. Such revocation must take place prior to parole under or expiration of the sentence of imprisonment or within ninety days after the grounds for revocation come to the attention of the Department of Corrections, whichever occurs first.

Section 289. A new section of KRS Chapter 533 is created to read as follows:

(1) At any time before the discharge of the defendant or the termination of the sentence of probation or conditional discharge:

(a) The court may summon the defendant to appear before it or may issue a warrant for his arrest upon a finding of probable cause to believe that he has failed to comply with a condition of the sentence; or

(b) A probation officer, or peace officer acting at the direction of a probation officer, who sees the defendant violate the terms of his probation or conditional discharge may arrest the defendant without a warrant.

(2) The court may not revoke or modify the conditions of a sentence of probation or conditional discharge except after a hearing with defendant represented by counsel and following a written notice of the grounds for revocation or modification.

Section 290. KRS Chapter 534 is established and a new section thereof is created to read as follows:

The following definition applies in this chapter unless the context otherwise requires:

"Gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

Section 291. A new section of KRS Chapter 534 is created to read as follows:

(1) When a defendant is sentenced to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

(2) When a defendant is sentenced to pay a fine, an alternative sentence of imprisonment that is to be served in the event the fine is not paid shall not be imposed at the same time. The response of a court to nonpayment of a fine shall be determined only after the fine has not been paid, and only as provided in section 293 of this Act.

Section 292. A new section of KRS Chapter 534 is created to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony and granted a sentence of probation or conditional discharge may be sentenced to pay a fine in an amount not to exceed \$10,000 or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of such fines shall not exceed \$10,000 or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) This section does not apply to a corporation.

Section 293. A new section of KRS Chapter 534 is created to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether or not the

fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury then the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony may be sentenced to pay a fine in an amount not to exceed:

- (a) For a Class A misdemeanor, \$500; or
- (b) For a Class B misdemeanor, \$250; or
- (c) For a violation, \$250.

(3) This section does not apply to a corporation.

Section 294. A new section of KRS Chapter 534 is created to read as follows:

(1) For an offense defined in this code a corporation convicted of an offense may be sentenced to pay a fine in an amount not to exceed:

- (a) For a felony of any class, \$20,000; or
- (b) For a Class A misdemeanor, \$10,000; or
- (c) For a Class B misdemeanor, \$5,000; or
- (d) For a violation, \$500; or

(e) Double the amount of the defendant's gain from commission of the offense, whichever is the greater.

(2) For an offense defined outside this code for which no special corporate fine is specified, a corporation convicted of an offense may be sentenced to pay a fine in an amount not to exceed:

- (a) \$20,000, if the offense when committed by an individual has an authorized term of imprisonment in the penitentiary; or
- (b) \$10,000, if the offense when committed by an individual has an authorized term of imprisonment of not less than ninety days nor more than twelve months; or
- (c) \$5,000, if the offense when committed by an individual has an authorized term of imprisonment of less than ninety days; or
- (d) \$500, if the offense when committed by an individual has no authorized term of imprisonment; or
- (e) Double the amount of the defendant's gain from commission of the offense, whichever is the greater.

(3) For an offense defined outside this code for which a special corporate fine is specified, a corporation convicted of the offense may be sentenced to pay a fine in the amount specified in the law that defines the offense.

Section 295. A new section of KRS Chapter 534 is created to read as follows:

(1) When an individual sentenced to pay a fine defaults in the payment of the fine or any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

(2) Following an order to show cause under subsection (1), unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court and not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed:

- (a) Six months, if the fine was imposed for the conviction of a felony; or
- (b) One-third of the maximum authorized term of imprisonment for the offense committed, if the fine was imposed for conviction of a misdemeanor; or
- (c) Ten days, if the fine was imposed for conviction of a violation.

(3) If the default in payment of a fine is determined to be excusable under the standards set forth in subsection (2), the court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way. In addition the court may enter an order compelling the defendant to work for a department of local government, if:

- (a) Such department, through appropriate authority, approves the defendant's employment;
- (b) Such department will pay the defendant for his work at a reasonable rate of compensation;
- (c) The defendant is not otherwise gainfully employed nor medically disabled; and
- (d) Such employment will not cause economic hardship to the defendant or his dependents.

In the event such an order is entered the court shall designate the portion of the defendant's compensation that is to be credited toward payment of his fine, which in no event shall be more than forty percent of gross compensation.

(4) When a fine is imposed on a corporation, it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections (1) and (2).

(5) Following a default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth.

Section 296. KRS 2.060 is amended to read as follows:

No person shall in any manner, for exhibition or display, place or cause to be placed upon, or expose or cause to be exposed to public view any flag, standard, colors or ensign of the United States upon which has been placed, or to which is attached, appended, affixed or annexed, any word, figure, mark, picture, design or drawing, or advertisement of any nature; nor shall any person manufacture, sell, expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose, any article of merchandise, or a receptacle for merchandise or thing for carrying or transporting merchandise upon which has been placed a representation of any such flag, standard, colors or ensign, to advertise, call attention to, decorate, mark or distinguish the article on which so placed [; nor shall any person publicly mutilate, deface, defile, or defy, trample upon or cast contempt, either by word or act, upon any such flag, standard, colors or ensign].

Section 297. KRS 21.140 is amended to read as follows:

(1) A defendant may appeal as a matter of right to the Court of Appeals from a final judgment of the circuit court imposing a sentence of confinement or imprisonment of twelve (12) months or more.

(2) The Court of Appeals may grant an appeal on a motion by a defendant from a final judgment of the circuit court imposing a sentence of confinement of less than twelve (12) months or a fine or both. The court may also grant an appeal on a motion by a defendant from a final judgment of a county judge on a prosecution transferred to the county judge in accordance with KRS 23.145.

(3) *An appeal may be taken to the Court of Appeals by the state from an adverse decision or ruling of the circuit judge and such an appeal shall not suspend the proceedings in the case. An appeal by the state shall be taken in the manner provided in the Rules of Criminal Procedure except that the record on appeal shall be transmitted by the clerk of the circuit court to the Attorney General. If the Attorney General is satisfied, after inspecting the record, that error has been committed to the prejudice of the state, upon which it is important to the correct and uniform administration of the law that the Court of Appeals should decide, he may deliver the record to the Clerk of the Court of Appeals within the time prescribed by the Rules of Criminal Procedure.*

[(3) An appeal may be taken to the Court of Appeals by the commonwealth from an adverse decision or ruling of the circuit judge and such an appeal shall not suspend the proceedings in the case. An appeal by the commonwealth shall be taken in the manner provided in the Rules of Criminal Procedure except that the record on appeal shall be transmitted by the clerk of the circuit court to the attorney general. If the attorney general is satisfied, after inspecting the record, that error has been committed to the prejudice of the commonwealth, upon which it is important to the correct and uniform administration of the law that the Court of Appeals should decide, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the Rules of Criminal Procedure.]

(4) *When an appeal is taken pursuant to subsection (3), the Court of Appeals, if the record so warrants, may reverse the decision of the circuit court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.*

(5) *An appeal may be taken to the circuit court by the prosecution from an adverse decision or ruling of a judge of the police, magistrate's, or county court on any question of law and such an appeal shall not suspend the proceedings in the case. Such appeal shall be taken in the manner provided in the Rules of Criminal Procedure. When an appeal is taken pursuant to this subsection, the circuit court, if the record so warrants, may reverse the decision of the lower court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.*

Section 298. KRS 25.990 is amended to read as follows:

(1) Any justice who violates KRS 25.760 shall be fined ten dollars (\$10.00).

[(2) Any justice, recorder or deputy recorder in any county having a population of over 250,000 who violates any of the provisions of KRS 25.770 shall be confined in the penitentiary for not less than two (2) nor more than ten (10) years.]

(2)/[(3)] Any justice who fails to keep the order book or execution book required by KRS 25.660 shall be fined not less than fifty (50) nor more than one hundred dollars (\$100).

Section 299. KRS 26.450 is amended to read as follows:

[(1) Except as otherwise provided by law, any person against whom a fine is imposed upon conviction of a misdemeanor in the police court of a city of the first class, or who is arrested under a capias pro fine for a violation of an ordinance of a city of the first class, shall, unless discharged by authority of law or by payment of such fine, be committed to the workhouse or county jail and shall be there detained, until the fine against him is paid or is satisfied by his earnings by compulsory work, in or out of the workhouse or county jail, at such wages as may be prescribed by statute or by ordinance.]

(1)/[(2)] Except as otherwise provided by law, any person sentenced to imprisonment upon conviction of a misdemeanor in the police court of a city of the first class shall, unless discharged by authority of law, be

committed to the workhouse or county jail and shall be there detained at hard labor in or out of the workhouse or county jail, if hard labor is imposed under subsection (2) [(3)] of this section, until the sentence has been served.

(2)/[(3)] When imprisonment is imposed by the judge or jury in the police court of a city of the first class, the judge or jury may direct whether or not the imprisonment shall be at hard labor, unless the statute imposing the penalty specifically prohibits the exercise of such discretion.

(3)/[(4)] The jailer, or sheriff performing the duties of a jailer, of any county jail to which prisoners are committed at hard labor [or to satisfy fines by compulsory work] under *subsection (1)* [subsections (1) or (2)] of this section, may, by agreement with the city of the first class, provide for the adequate care, supervision, guarding, discipline, maintenance, transportation and housing of such prisoners while performing work or labor for the city outside the jail.

(4)/[(5)] The procedure established by subsection (4) of this section for placing at work prisoners confined in county jails at hard labor is not intended to supersede other procedures otherwise prescribed by statute for the same purpose, but is intended as an additional or alternative method therefor.

Section 300. KRS 26.470 is amended to read as follows:

Persons sentenced to imprisonment in the police court of a city of the third class may be required to work in the city workhouse or on the streets, alleys or any public work of the city during the period of imprisonment.

[(1)] Any person fined in the police court of a city of the third class shall be committed to the city prison until the fine and costs are paid or replevied, but not for more than one (1) day for each dollar of the fine and costs. He may be required by ordinance to work in the city workhouse or on the streets, alleys or any public work of the city, until the fine and costs are satisfied, at the rate of one dollar (\$1.00) per day.]

[(2)] Persons sentenced to imprisonment may be required to work in the same way during the period of imprisonment.]

Section 301. KRS 26.490 is amended to read as follows:

(1) Any person sentenced to imprisonment by the police court of a city of the fifth class for violating a city ordinance may be imprisoned in the city jail, and if there is no city jail he shall be imprisoned in the county jail.

(2) Any person sentenced to imprisonment by the police court of a city of the sixth class for violating a city ordinance may be imprisoned in the city jail or, if the board of trustees so prescribe by ordinance, in the county jail.

(3) The cost of imprisonment in city or county jail as provided for in this section shall be paid by the city.

(4) *When imprisonment is imposed by the judge or jury in the police court of a city of the fifth or sixth class, the judge or jury may direct whether or not the imprisonment shall be at hard labor, unless the statute imposing the penalty specifically prohibits the exercise of such discretion. Any person so sentenced shall be committed to labor in the workhouse, or on streets or other public works or property within the city, until the imprisonment is satisfied.*

[(4)] The city legislative body of cities of the fifth and sixth classes may cause persons imprisoned under final judgment in the police court, or in default of payment of fine and costs imposed by the police court, to labor in the workhouse, or on streets or other public works or property within the city, until the imprisonment is satisfied or the fine and costs paid, and may fix the amount of the fine and costs that shall be considered paid by each day's labor.]

Section 302. KRS 29.350 is amended to read as follows:

No juror in any case shall [take or agree to take anything, directly or indirectly, to give or refrain from giving his verdict, nor,] from favoritism or corrupt partiality, give or refrain from giving his verdict.

Section 303. KRS 84.220 is amended to read as follows:

The general council may, by ordinance:

(1) Provide for the erection, management and regulation of slaughterhouses, and regulate the slaughtering of animals;

(2) Prohibit, remove or regulate the erection or maintenance, within the city limits, or within two (2) miles of the city limits, of stockyards, slaughterhouses, pigpens, cow stables, dairies, soap, coal oil and vitriol factories, and all other factories that the general council declares, by ordinance, to be nuisances;

(3) Declare, prevent and abate nuisances on public or private property, and the causes thereof;

[(4)] Restrain and prevent riots, routs, noises, disturbances and disorderly assemblages;]

(4)/[(5)] Restrain and prevent amusements or practices dangerous or annoying to persons or property;

(5)/[(6)] Restrain and prevent all noises, performances and practices tending to the collection of persons on the streets and sidewalks;

(6)/[(7)] Regulate or prohibit the driving of stock through the city or any part thereof;

(7)/[(8)] License and tax dogs, authorize their destruction when at large contrary to ordinance, and impose penalties on their owners or keepers;

(8) [(9)] Regulate or prohibit the running at large of animals, and authorize the impounding and sale of animals. [.]

[(10) Prohibit the abuse of animals.]

Section 304. KRS 85.180 is amended to read as follows:

The common council may, by ordinance:

- (1) Define, declare, prevent and abate nuisances in the city and within one (1) mile thereof;
- (2) Regulate, restrain or prevent the establishment or continuance in or near the city of any trade, occupation, business or factory that is offensive to the public, dangerous to health, or is a fire hazard;
- (3) Regulate the sale of firearms [, and prevent the carrying of concealed deadly weapons];
- [(4) Provide for the arrest, imprisonment and punishment of riotous and disorderly persons;]
- [(5) Provide for the prevention, suppression and punishment of all riots and breaches of the peace, noises, disturbances and disorderly or unlawful assemblies, either within the city or within one (1) mile of the city limits;]

(4) [(6)] Regulate, tax, license or suppress the keeping and running at large of animals within the city, impound animals kept or allowed to run at large in violation of ordinance, and sell or kill those not redeemed pursuant to ordinance.

Section 305. KRS 132.410 is amended to read as follows:

(1) The fiscal court of each county shall provide for the property valuation administrator a suitable office room or rooms in the county courthouse, or when that is not practicable, in some other building at the county seat, together with suitable furniture. In that office shall be safely kept the books, maps, taxpayers' lists, papers and all other records pertaining to the assessment of property within the county, except when such records are required by law to be placed in the custody of other officers. [The provisions of KRS 432.130 shall apply to these public records.]

(2) The property valuation administrator shall engage in official duties at least five (5) days a week during regular working hours and shall keep scheduled office hours at least five (5) days each week.

Section 306. KRS 164.990 is amended to read as follows:

[(1) Any person or persons making fraudulent statements to obtain benefits under KRS 164.515 shall be imprisoned in the penitentiary for one (1) year or fined one thousand dollars (\$1,000), or both.]

[(2)] Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned.

[(3) Any person who violates the provisions of KRS 164.980 shall be fined not less than \$50 nor more than \$1,000 or shall be imprisoned in the county jail for not less than ten nor more than ninety days, or both.]

Section 307. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the county court of each county shall have exclusive jurisdiction in proceedings concerning any child[,] living, or found[,] within the county *who* [and] has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, needy or abandoned.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons *charged with violations of sections 262 and 263 of this Act*. [who, and no person shall:

(a) Knowingly encourage, aid, cause or in any manner contribute to the conditions which cause, or to cause a child who has not reached his eighteenth birthday to become delinquent, neglected, dependent, needy or charged with a crime.

(b) Willfully failed to do any act that will directly tend to prevent a child who has not reached his eighteenth birthday becoming delinquent, neglected, dependent, needy, abandoned or charged with a crime.]

(4) The court shall have exclusive jurisdiction of persons who and no person shall wilfully and unnecessarily expose to the inclemency of the weather, or in any other manner wilfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

- (a) In begging or receiving alms, or in any mendicant occupation;
- (b) If the child is a female, in peddling or in any wandering occupation;
- (c) In any indecent or immoral occupation or practice;
- (d) In the exhibition of any such child when insane, or idiotic; or
- (e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

Section 308. KRS 208.170 is amended to read as follows:

(1) If, during the course any proceeding in the juvenile court, it appears to the court that there is reasonable cause to believe that a child before the court has committed a felony, and at the time of commission of the offense the child was sixteen (16) years of age or older, or was less than sixteen (16) years of age but the offense was *a class A felony or a capital offense*, [murder or rape, including being an accessory to either of said offenses before the fact,] and the court is of the opinion that the best interests of the child and of the public require that the child be tried and disposed of under the regular law governing crimes, the court in its discretion may make an order transferring the case to the circuit court of the county in which the offense was committed. No child shall be considered a felon for any purpose until transferred to, tried and convicted of a felony by a circuit court.

(2) When the juvenile court so transfers a case to the circuit court:

(a) If a grand jury considers the case and is satisfied there is sufficient evidence to indict the child, it may either return an indictment or may return a written report to the circuit court recommending that the child be committed to the department. If the court believes that such commitment would be proper, it may order the child committed to the department.

(b) If, during any stage of the trial in the circuit court, the child or his parent or guardian so requests, the judge in his discretion may stop the trial and commit the child to the department.

(c) If neither of the procedures specified in paragraphs (a) and (b) of this subsection are employed, the child shall be tried as any other defendant.

(d) While under the jurisdiction of the circuit court, the child shall be subject to bail the same as an adult.

(e) Any commitment to the department under paragraph (a) or (b) of this subsection shall be for an indeterminate period not to exceed the age of twenty-one (21).

Section 309. KRS 208.990 is amended to read as follows:

(1) Any person who violates KRS 208.120 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not more than thirty (30) days, or both.

(2) Any person who transports or causes or permits a female child to be transported in violation of subsection (1) of KRS 208.260 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(3) Any person who violates subsection (2) of KRS 208.260 shall be fined not more than one hundred dollars (\$100).

[(4) (a) Any adult person who violates subsection (3) of KRS 208.020 shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than twelve (12) months, or both;]

[(b) Instead of the penalty imposed by paragraph (a) of this subsection, the court may suspend the sentence or release the defendant on probation upon his recognizance, with or without sureties. The

defendant may be ordered during the effective period of his probation to make his personal appearance in court from time to time, and shall provide and care for the child as directed by the court, and shall further comply with the orders of the court. If the court is satisfied on information or proof under oath that the defendant has violated the terms of the order, it may revoke the order and sentence him under the original order of conviction.]

(4)[(5)] Any person who violates the provisions of KRS 208.020 (4) shall be fined not more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse not more than one (1) year, or both.

(5)[(6)] Any person who violates KRS 208.020 (5) shall, for the first offense, be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300), or imprisoned in the county jail or workhouse not more than ninety (90) days, or both; and for any subsequent offense he shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail or workhouse for not more than one (1) year, or both.

(6)[(7)] Anyone who violates the provisions of KRS 208.275 shall be subject to a fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for a period of not less than 30 days nor more than 6 months or both.]

Section 310. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100).

[(2) Any person who, by negligent operation of a motorboat, causes the death of another, under circumstances not otherwise punishable as a homicide, shall be imprisoned in the county jail for not more than one (1) year.]

(2)[(3)] Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100).

Section 311. KRS 247.990 is amended to read as follows:

(1) Any person who violates subsection (3) of KRS 247.270 or who diverts the funds or profits of a farm bureau to any purpose except the purposes of the farm bureau shall be guilty of *theft* [larceny] and be punished as provided by law.

(2) Any officer who makes a certificate required by subsection (2) of KRS 247.270 or by KRS 247.300 knowing it to be false or incorrect in any particular, shall be fined not more than one hundred dollars (\$100).

Section 312. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 287.030 shall be fined not less than twenty (\$20.00) nor more than fifty dollars (\$50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars (\$200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (4) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (4) of KRS 287.440 shall immediately report such fact to the commissioner of banking and securities, who shall remove the person so offending.

[(4) Any officer of a bank who violates KRS 287.550, shall be imprisoned in the penitentiary for not less than one (1) nor more than ten (10) years.]

(4)[(5)] Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5)[(6)] Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6)[(7)] Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred (\$100) nor more than two thousand dollars (\$2,000) for each offense.

(7)[(8)] Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred (\$500) nor more than five thousand dollars (\$5,000) for each offense.

(8) [(9)] Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars (\$25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars (\$250).

(9) [(10)] Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred (\$100) nor more than five hundred dollars (\$500).

(10) [(11)] Whenever any penalty imposed by subsections (4), [(5)], (6), (7), (8), (9) or [(10)] is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) [(12)] Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000).

(12) [(13)] Any person who wilfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$500.00 or by imprisonment for not more than six months, or both.

(13) [(14)] Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) [(15)] Notwithstanding the provisions of subsections (13) and (14) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

Section 313. KRS 392.100 is amended to read as follows:

If the violator *section 257 of this Act* [KRS 436.080] is a man, his first wife shall, on his conviction, be endowed of one-third part of his real estate for life and an absolute interest in one-third part of his other estate, to be allotted and recovered as dower in other cases. If the violator of *section 257 of this Act* [KRS 436.080] is a woman, she shall forfeit her claim to dower in her first husband's estate.

Section 314. KRS 411.070 is amended to read as follows:

Any person who violates *section 153 of this Act* [KRS 434.090] shall be personally liable to any person damaged by the violation for the amount of the damage. This section shall not release the principal for whom the person may have acted from any liability, but the person liable and the principal for whom he acted in violating this section shall be jointly and severally liable.

Section 315. KRS 431.130 is amended to read as follows:

Prisoners sentenced to punishment by confinement in the penitentiary shall be kept at hard labor. If the punishment is [a fine or] imprisonment in the jail of the county, [or both,] the imprisonment shall be close confinement in the jail of the county where the trial was held, unless otherwise provided. [The prisoner shall also be confined in the county jail until the costs are paid, unless otherwise provided.] In any jurisdiction where there is a county workhouse the court may in its discretion confine the prisoner to the county workhouse instead of the county jail.

Section 316. KRS 431.140 is amended to read as follows:

When the punishment for a crime is [a fine or] imprisonment in the county jail, [or both, and the defendant is a male,] the jury may, in its discretion, in those cases in which it is authorized to fix the punishment, provide in its verdict that the defendant shall work at hard labor [until the fine and costs are satisfied, or] during the time of his sentence of imprisonment, [or both,] and the presiding judge at such a trial shall inform the jury by an instruction that it may so provide in its verdict. When such a verdict is returned, or when the case is tried by the court or the punishment is authorized to be fixed by the court, a judgment shall be rendered directing that the defendant shall work at hard labor [until the fine and costs are satisfied, at the rate of two dollars per day, or] during the time of his sentence of imprisonment, [or both,] as the verdict provides.

Section 317. KRS 432.350 is amended to read as follows:

Any member of the general assembly or any other executive, judicial, ministerial or legislative officer of this state or of any county or city, including members of boards of education and subdistrict trustees, who takes or agrees to take any bribe to do or omit to do any act in his official capacity shall forfeit his office and be disqualified from the right of suffrage for ten years.

[(1) Any person who promises, offers, gives or causes or procures to be promised, offered or given any money or other thing of value, or makes or tenders any contract, obligation, gratuity or security for the payment of money or for the delivery or conveyance of anything of value, to any member of the General Assembly, or to any judicial, executive or ministerial officer of this state, or to any county or city executive, ministerial, judicial or legislative officer, including members of boards of education and subdistrict trustees, after he has been elected, and before or after he has been qualified and assumed office or taken his seat, with intent to influence his vote or decision on any question, matter, cause or proceeding pending in the General Assembly or before such officer, or pending before any committee of the General Assembly, shall be fined not less than fifty dollars nor more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, or both.]

(2) Any member of the General Assembly or any other executive, judicial, ministerial or legislative officer of this state or of any county or city, including members of boards of education and subdistrict trustees, who takes or agrees to take any bribe to do or omit to do any act in his official capacity shall be fined not less than fifty dollars nor more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, and shall forfeit his office and be disqualified from the right of suffrage for ten years.

(3) Any prosecution under this section shall be commenced within five years from the date of the commission of the offense.

(4) Any person who gives to any subdistrict trustee any remuneration in return for recommendation or appointment to any position in the school system shall be exempt from prosecution under this section if he appears as a witness against the subdistrict trustee.]

Section 318. KRS 433.234 is amended to read as follows:

[(1) Any person who takes merchandise offered for sale by any store or other mercantile establishment with the intention of converting the same to his own use without paying the purchase price therefor, shall be fined not more than three hundred dollars or imprisoned not more than six months, or both for the first offense. For a second offense he shall be fined not more than five hundred dollars and imprisoned not more than six months, and for a third offense he shall be imprisoned in the penitentiary not less than one nor more than five years.]

(1)[(2)] Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of *an intent to deprive the owner of his property* [concealment with intention of converting same to personal use] without paying the purchase price therefor.

(2)[(3)] All city and county law enforcement agencies shall cause *to be made* a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested *for theft through an act of shoplifting* [under this section and KRS 433.236 to be made]. If convicted, two copies of each item shall be forwarded within thirty days to the Division of State Police of the Department of Public Safety.

Section 319. KRS 437.140 is amended to read as follows:

In any prosecution for *criminal conspiracy* [a violation of any provision of KRS 437.110 or 437.120] it shall be no exemption for a witness that his testimony may incriminate himself. No testimony given by the witness shall be used against him in any prosecution except for perjury, and he shall be discharged from all liability for a violation of any *criminal conspiracy law* [provision of KRS 437.110 or 437.120] necessarily disclosed in his testimony.

Section 320. KRS 433.430 is amended to read as follows:

Any person who willfully and maliciously prevents, obstructs or delays the sending, transmission, conveyance or delivery in this state of any message, communication or report through any telegraph or telephone line, wire or cable shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than one year, or both.

[Any person who willfully and maliciously displaces, removes or damages any telegraph or telephone line, wire, cable, pole or conduit belonging to another; or willfully and maliciously cuts, breaks, taps or makes any connection with any telegraph or telephone line, wire, cable or instrument belonging to another, or the material or property appurtenant thereto; or willfully and maliciously reads, takes or copies any message, communication or report intended for another passing over any such telegraph or telephone line, wire or cable in this state; or willfully and maliciously prevents, obstructs or delays the sending, transmission, conveyance or delivery in this state of any message, communication or report through any telegraph or telephone line, wire or cable; or uses any apparatus to unlawfully do or cause to be done any of the acts mentioned in this section shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not more than one year, or both.]

Section 321. KRS 433.450 is amended to read as follows:

[(1) No person shall throw or deposit upon any public highway any glass, nail, tack, hoop, wire, can or any other substance likely to injure any person, animal or vehicle.]

(1)[(2)] Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2)[(3)] Any person who violates this section shall be fined not less than twenty-five dollars nor more than three hundred dollars.

Section 322. KRS 433.720 is amended to read as follows:

[(1) Any person who, without the consent of the owner, enters any orchard, game preserve, ginseng garden, or other premises enclosed by a fence not less than seven feet in height, after the owner has conspicuously displayed on the premises on a board not less than twelve by twenty-four inches in size the word "posted"; and any person who damages any such fence enclosing such premises shall be confined in the penitentiary for not less than one nor more than three years.

(2) Any person who, without the consent of the owner willfully enters or goes upon the enclosed farm premises of another shall be punished by a fine of not more than five hundred dollars, or by confinement in the county jail for not more than six months, or both.

(3) Subsection (2) of this section does not apply to any person entering any of the foregoing property for purposes of hunting if the hunter first obtains permission from the owner, lessor, lessee or occupier of the foregoing property to hunt thereon.]

(1)[(4)] Any hunter who hunts upon the property of another, whether with permission or not, shall be liable in civil damages for any damages caused as a result of his presence upon that property.

(2)[(5)] No owner, lessor, lessee or occupier of property shall be liable for any damages suffered by any person entering thereon for purposes of hunting, irrespective of whether or not the hunter is upon that property with permission of the owner, lessor, lessee or occupier of the property.

Section 323. KRS 433.757 is amended to read as follows:

(1) *When any litter, as defined in section 105 of this Act is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated section 111 of this Act.*

(2) *It shall be the duty of law enforcement officers of the Division of Boating as provided in KRS 235.010 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of section 111 of this Act.*

(3) *Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of section 111 of this Act.*

[(1) Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any trash, litter, debris or refuse of any kind whatsoever, including but not limited to, garbage, swill, cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, paper, and boxes, into or upon any lake, river, stream, creek or other body of water, or on the ice over such waters, or on the banks adjacent thereto, shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars nor more than three hundred dollars.

(2) When any trash, litter, debris or refuse as described above is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated this section.

(3) It shall be the duty of law enforcement officers of the Division of Boating as provided in KRS 235.310 and fish and wildlife conservation officers as provided in KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions to enforce the provisions of this section.

(4) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for a violation of this section.]

Section 324. KRS 433.800 is amended to read as follows:

Any person who knowingly alters or defaces the marks or brands on any cattle [or other property] not his own, without the consent of the owner, shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Section 325. KRS 434.570 is amended to read as follows:

In addition and supplemental to the acts proscribed under *section 153 of this Act* [KRS 434.090], a person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or as to a material fact about his financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit card, is guilty of a felony and shall be confined in the penitentiary for not less than one nor more than five years.

Section 326. KRS 434.650 is amended to read as follows:

(1) A person who, with intent to defraud the issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person,

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit card which he knows is forged, expired or revoked, or

(b) Obtains money, goods, services or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, or

(c) Uses a credit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit card which he knows is forged, expired or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under *section 120 of this Act* [KRS 434.070] or *section 134 of this Act* [KRS 434.130], is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services or other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value exceeds \$100 in any six-month period.

(2) Knowledge of revocation shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if, the address is more than 500 miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

Section 327. KRS 436.480 is amended to read as follows:

The Kentucky Penal Code [KRS 436.440 to 436.470] shall not apply to enclosures during regular race meetings or enclosures in which horse racing is being conducted under license from the State Racing Commission, or to enclosures during regular race meetings in which trotting and pacing horses are being conducted by associations regularly organized for that purpose.

Section 328. KRS 436.605 is amended to read as follows:

(1) Dog wardens and officers and agents of humane societies shall have the powers of peace officers for the purpose of enforcing the provisions of *the Kentucky Revised Statutes relating to cruelty and mistreatment of animals* [KRS 436.180 and 436.590 to 436.600], provided they possess the qualifications required under KRS 61.300.

(2) Any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth, who shall make oath before any judge of a court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn or other enclosure, the said judge shall thereupon on proof of demand having been made, issue a search warrant directed to any peace officer, or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth or other peace officer to search the said premises, and if upon such search it is found that an act of cruelty to animals is being perpetrated to forthwith arrest such offender or offenders and bring him or them before the said court for trial.

Section 329. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and *the Kentucky Penal Code*, any county or circuit court may, upon motion of the defendant made not earlier than thirty days nor later than sixty days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. The court which tried the defendant may also suspend the sentence and place the defendant on probation upon its own motion, made within the same thirty-day period.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty days of the filing date of that motion, and shall enter its ruling within ten days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

Section 330. KRS 439.550 is amended to read as follows:

If any court inferior to the circuit court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that such defendant be under the supervision of the Department of Corrections or provide its own supervision through the welfare department of the city or the

fiscal court of the county.

(1) Whenever any person has been found guilty of a crime upon verdict or plea, in any court inferior to the circuit court that court may postpone the entering of judgment and place the defendant on probation.

(2) In placing any defendant on probation, the court may direct that such defendant be under the supervision of the Department of Corrections or provide its own supervision through the welfare department of the city or the fiscal court of the county.

(3) The period and conditions of probation and the discharge of such persons shall be in accordance with and pursuant to KRS 439.270 and 439.290.

(4) Such probationer may be arrested and his case disposed of according to KRS 439.300.]

Section 331. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warmblooded living creature except a human being;

(3)[(2)] "Attorney" means attorney at law;

(4)[(3)] "Bequeath" and "devise" mean the same thing;

(5)[(4)] "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6)[(5)] "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;

(7)[(6)] "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;

(8)[(7)] "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;

(10)[(8)] "Directors", when applied to corporations, includes managers or trustees;

(11)[(9)] "Domestic", when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13)[(10)] "Federal" refers to the United States;

(14)[(11)] "Foreign", when applied to corporations, includes all those incorporated or formed by authority of any other state;

(16) "Humane society", "society", or "Society for the Prevention of Cruelty to Animals", means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17)[(12)] "Issue", as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18)[(13)] "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19)[(14)] "Legatee" and "devisee" convey the same idea;

(20)[(15)] "Magistrate" includes county judge, police judge and justice of the peace;

(21)[(16)] "May" is permissive;

(22)[(17)] "Month" means calendar month;

(23)[(18)] "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

24 "Owner" when applied to any animal, means any person having a property interest in such animal;

(25)[(19)] "Peace officer" includes sheriffs, constables, coroners, jailers, marshals, policemen and other persons with similar authority to make arrests;

(26)[(20)] "Penitentiary" includes all of the state penal institutions except the houses of reform;

(27)[(21)] "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(28)[(22)] "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(29)[(23)] "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected.

(30)[(24)] "Shall" is mandatory;

(31)[(25)] "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(32)[(26)] "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33)[(27)] "United States" includes territories, outlying possessions and the District of Columbia;

(34)[(28)] "Vacancy in office", or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35)[(29)] "Violate" includes failure to comply with;

(36)[(30)] "Will" includes codicils; "last will" means last will and testament;

(37)[(31)] "Year" means calendar year; and

(38)[(32)] "City" includes town.

Section 332. KRS 433.753 is amended to read as follows:

[(1)] Any person who places, deposits, throws or dumps, or causes to be placed, deposited, thrown or dumped, any garbage, swill, cans, bottles, glass, crockery, wood, trees or parts thereof, brush, scrap metal, junk, abandoned automobiles or parts thereof, paper, boxes, carcass of a dead animal, offal, trash, litter, debris or refuse of any kind whatsoever, in or upon any public or private highway or road, including any portion of the right of way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property, or in or upon any public park or other public property other than property designated or set aside as a public dump by the governing body having charge thereof, shall be guilty of a misdemeanor and fined not less than twenty-five dollars nor more than three hundred dollars.

(2) Any person operating a truck or other motor vehicle on any road or highway in such a manner or condition that the contents are blown or fall out of such vehicle upon or along the right of way of such road shall be guilty of a misdemeanor and fined not less than twenty-five dollars nor more than three hundred dollars.]

[(1)][(3)] When any paper, waste material, litter or other refuse [as described above] is thrown or dropped from a motor vehicle, the operator thereof shall be deemed *prima facie* to be *guilty of criminal littering* [have violated this section].

[(2)][(4)] It shall be the duty of the Kentucky State Police, county sheriffs and police officers, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the *criminal littering laws* [provisions of this section].

[(3)][(5)] Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation *for commission of the offense of criminal littering* [for a violation of this section].

[(6)] No portion of this section shall be construed to restrict a private owner in the use of his own private property except where otherwise prohibited by law.]

Section 333. KRS 436.107 is amended to read as follows:

[(1)] It shall be unlawful for any person to make use of telephone facilities or equipment for the purpose of communicating language, suggestions or proposals which are obscene, profane, lewd, lascivious or indecent in a manner reasonably to be expected to annoy, abuse, harass, torment or embarrass another.

(2) Any person violating any of the provisions of subsection (1) shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$50 nor more than \$1,000, or to imprisonment for not more than one year or both.]

[(3)] After the ninetieth day following June 16, 1966, every telephone directory thereafter published for distribution to members of the general public shall contain a notice which explains *that it is unlawful for any person to make use of telephone facilities or equipment for the purpose of communicating language, suggestions or proposals which are obscene, profane, lewd, lascivious or indecent in a manner reasonably to be expected to annoy, abuse, harass, torment or embarrass another.* [this law], such notice to be printed in type which is no smaller than the smallest type on the same page, and to be preceded by the word "WARNING". The provisions of this section shall not apply to directories solely for business advertising purposes, commonly known as classified directories.

Section 334. KRS 436.510 is amended to read as follows:

(1) In any prosecution or any investigation by an examining court or grand jury *of gambling violations* [under KRS 436.490, or any prosecution for gambling], it shall be no exemption for a witness that his testimony may incriminate himself.

(2) It shall be no exemption for the buyer of a lottery ticket, in any prosecution against the seller of a lottery ticket, that his testimony may incriminate himself.

(3) No testimony given in the proceedings stated in subsections (1) and (2) of this section shall be used against the testifying witness in any prosecution except for false swearing.

(4) Except as provided in subsection (3) of this section, a witness testifying in any prosecution [or any investigation by an examining court or grand jury under KRS 436.490, or any prosecution] against the seller of a lottery ticket, shall be discharged from all liability for any offense necessarily disclosed in his testimony.

(5) A witness testifying in any prosecution for gambling shall be discharged from all liability for gambling disclosed in his testimony.

[(6) No person against whom a witness testifies in any prosecution or any investigation by an examining court or grand jury under KRS 436.490 shall testify as to similar violations on the part of the witness.]

(6) [(7)] No person against whom a witness testifies in any prosecution for gambling shall testify as to any gambling by the witness.

Section 335. KRS 439.610 is amended to read as follows:

The willful failure of a prisoner to remain within the extended limits of his confinement, or to return within the time prescribed to an institution or facility to which he was committed or transferred to after commitment, constitutes an escape from custody punishable as provided in *section 171 of this Act* [432.390].

Section 336. KRS 2.070, 16.190, 16.990, 25.770, 26.160, 61.700, 78.991, 102.990, 150.991, 160.991, 287.550, 405.030, 405.040, 405.050, 405.080, 405.990, 421.090, 431.035, 431.065, 431.070, 431.075, 431.090, 431.150, 431.155, 431.160, 431.170, 431.180, 431.190, 431.216, 432.010, 432.020, 432.030, 432.040, 432.050, 432.060, 432.070, 432.080, 432.090, 432.100, 432.130, 432.140, 432.150, 432.160, 432.170, 432.180, 432.190, 432.200, 432.210, 432.215, 432.220, 432.300, 432.310, 432.320, 432.330, 432.340,, 432.361, 432.365, 432.370, 432.380, 432.390, 432.400, 432.410, 432.420, 432.430, 432.440, 432.445, 432.460, 432.470, 432.480, 432.495, 432.500, 432.505, 432.530, 432.540, 432.560, 433.010, 433.020, 433.030, 433.050, 433.060, 433.070, 433.110, 433.120, 433.130, 433.140, 433.150, 433.160, 433.170, 433.180, 433.190, 433.200, 433.210, 433.220, 433.230, 433.240, 433.250, 433.260, 433.270, 433.280, 433.290, 433.300, 433.310, 433.320, 433.330, 433.340, 433.350, 433.360, 433.370, 433.380, 433.390, 433.395, 433.400, 433.410, 433.420, 433.440, 433.460, 433.480, 433.490, 433.500, 433.510, 433.521, 433.522, 433.523, 433.524, 433.525, 433.531, 433.533, 433.615, 433.620, 433.630, 433.640, 433.650, 433.660, 433.670, 433.680, 433.730, 433.740, 433.760, 433.790, 433.810, 433.820, 433.830, 433.840, 433.850, 433.860, 433.870, 434.010, 434.020, 434.030, 434.040, 434.050, 434.060, 434.070, 434.080, 434.090, 434.100, 434.110, 434.120, 434.130, 434.140, 434.160, 434.170, 434.180, 434.190, 434.200, 434.210, 434.220, 434.230, 434.240, 434.250, 434.260, 434.270, 434.280, 434.290, 434.300, 434.350, 434.360, 434.380, 434.390, 434.400, 434.420, 434.430, 434.450, 434.460, 434.470, 434.480, 434.490, 434.500, 434.510, 435.010, 435.020, 435.022, 435.025, 435.030, 435.040, 435.050, 435.060, 435.070, 435.080, 435.090, 435.100, 435.105, 435.110, 435.120, 435.130, 435.140, 435.150, 435.160, 435.170, 435.180, 435.190, 435.200, 435.210, 435.220, 435.230, 432.235, 435.240, 435.250, 435.260, 435.270, 435.280, 435.290, 435.300, 435.310, 435.320, 436.010, 436.020, 436.030, 436.040, 436.050, 436.060, 436.070, 436.075, 436.080, 436.090, 436.101, 436.110, 436.120, 436.130, 436.140, 436.150, 436.155, 436.170, 436.180, 436.190, 436.200, 436.210, 436.220, 436.230, 436.240, 436.250, 436.260, 436.270, 436.280, 436.290, 436.300, 436.310, 436.330, 436.340, 436.350, 436.360, 436.370, 436.380, 436.390, 436.400, 436.410, 436.430, 436.440, 436.450, 436.460, 436.470, 436.490, 436.500, 436.505, 436.506, 436.520, 436.530, 436.540, 436.550, 436.560, 436.570, 436.580, 436.590, 436.593, 436.595, 436.597, 437.011, 437.012, 437.013, 437.015, 437.016, 437.017, 437.018, 437.020, 437.040, 437.050, 437.070, 437.080, 437.090, 437.100, 437.110, 437.120, 437.130, 437.150, 438.010, 438.020, 438.030, 438.040, 438.080, 438.090, 438.145, 438.150, 438.200, 439.260, 439.270, 439.280, 439.290, 439.300, 441.180, and 441.190 are repealed.

Section 337. All sections of this Act, with the exception of section 337, shall become effective January 1, 1975.

Section 338. Acts 1972, Chapter 385 is repealed. This section shall be effective as of the normal effective date for legislation passed during the 1974 Regular Session of the General Assembly.

HB 515, AN ACT relating to emergency medical treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. A new section of KRS Chapter 411 is created to read as follows:

No physician licensed under KRS Chapter 311, or registered nurse licensed under KRS Chapter 314, who in good faith gives emergency instructions to emergency medical technicians certified by the Department for Human Resources at the scene of an emergency, nor any such emergency medical technician following their instructions, shall be liable for any civil damages as a result of issuing or following the instructions, unless issuing or following the instructions constitutes wilful and wanton misconduct.

Section 2. KRS 411.185 is amended to read as follows:

(1) No physician licensed under KRS Chapter 311, registered or practical nurse licensed under KRS Chapter 314 [or person certified as an emergency medical technician by the Kentucky department of health] shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment excluding house calls, for acts performed at the scene of such emergency, unless such acts constitute wilful or wanton misconduct.

(2) Nothing in subsection 10 of this section applies to the administering of such care or treatment where the same is rendered for remuneration or with the expectation of remuneration, *except as provided in section 1 of this Act.*

(3) *No emergency medical technician certified by the Kentucky Department for Human Resources shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital for acts performed at the scene of such emergency, unless such acts constitute wilful or wanton misconduct.*

Section 3. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the President of the State Board of Medical Licensure;
- (3) "Secretary" means the Secretary of the State Board of Medical Licensure, or any assistant secretary thereof appointed as such by the board;
- (4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;
- (6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the Secretary to be qualified and eligible therefor;
- (7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty days.
- (8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.
- (9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, *the performance of duties by emergency medical technicians certified by the Department for Human Resources*, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the Department of Health and its Division of Maternal and Child Health by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.
- (10) "Physician" means a doctor of medicine or a doctor of osteopathy.

The Committee Substitute for **HB 515** is as follows:

HB 515, AN ACT relating to emergency medical treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the President of the State Board of Medical Licensure;
- (3) "Secretary" means the Secretary of the State Board of Medical Licensure, or any assistant secretary thereof appointed as such by the board;

- (4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;
- (6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the Secretary to be qualified and eligible therefor;
- (7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty days.
- (8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.
- (9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, *the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Department for Human Resources*, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the Department of Health and its Division of Maternal and Child Health by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.
- (10) "Physician" means a doctor of medicine or a doctor of osteopathy.

Announcements

Representative Donnermeyer moved that the rules be suspended to take **HB 641** from the Clerk's desk.

On the roll call the vote was yeas 56-Bennett, Benson, Beshear, Blythe, Chandler, Clapp, Dawahare, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Guenther, Hardin, Harris, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, King, Kleier, Lewis, Little, Loudon, Mann, Maynard, McBee, McGill, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Rattliff, Richardson, Romines, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 3-Crupper, Robinson, G. White.

The motion that the rules be suspended to take **HB 641** from the Clerk's desk was adopted.

Representative Donnermeyer moved that **HB 641** be placed in Orders of the Day for March 5, 1974.

On the roll call the vote was yeas 53-Bennett, Benson, Beshear, Chandler, Dawahare, Dietz, Donnermeyer, Dunn, Freeman, Givhan, Graves, Hardin, Harris, Holbrook, Hopkins, Hughes, Isler, Kafoglis, Kareem, Kenton, King, Kleier, Lewis, Little, Loudon, Mann, Maynard, McBee, Nett, O'Brien, Overstreet, Paxton, Priddy, Quickert, Richardson, Romines, Sale, Schmaedecke, Sharpe, Siemens, Smith, Stephens, Stewart, Stone, Swinford, Thomas, Troop, Van Horn, Vincent, Watkins, J. White, Wible, Yates. Nays 1-Schmidt.

The motion that **HB 641** be placed in Orders of the Day for March 5, 1974 was adopted.

Announcements (continued)

Representative Kleier announced Jefferson County Caucus on March 5, 1974, 12:30 P.M., Room 327.

The following members filed Floor Amendments: Swinford, No. 1 to **HB 648**; Swinford, No. 2 to **HB 493**; Swinford, No. 2 to **HB 655**; Kafoglis, No. 2 to **HB 579**; Paxton, No. 2 to **HB 314**; Holbrook, No. 1 to **HB 600**; Wible, No. 2 to **HB 600**; Quickert, No. 2 and No. 4 to **HB 487**; Givhan, No. 2 and No. 3 to **HB**

